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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A letter of the Secretary of State, with the correspondence relative to the proposed fisheries treaty.

IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
March 5, 1888.

Resolved, That the message of the President of the date of March 5, 1888, transmitting certain documents and correspondence in relation to the recent negotiations with Great Britain concerning American fishery interests in British North American waters, be printed, and that, under the direction of the Committee on Printing, all communications hitherto made by the President or the Secretary of State to either house upon the fisheries question, and in relation to the seizure of fishing vessels of the United States in the ports or waters of Great Britain or her dependencies, of date subsequent to the 4th day of March, 1877, be reprinted in connection with the documents transmitted by said message, including all the evidence taken before the Committee on Foreign Relations of the Senate and the report thereon, and that the injunction of secrecy be removed from the documents proposed to be printed in this resolution.

Attest:

ANSON G. MCCOOK,
Secretary.

EXECUTIVE MANSION,
Washington, March 5, 1888.

To the Senate and House of Representatives:

I herewith transmit a letter from the Secretary of State, accompanied by documents and correspondence in relation to the recent negotiations with Great Britain concerning American fishing interests in British North American waters.

GROVER CLEVELAND.

To the PRESIDENT:

I have now the honor to submit to you, with a view of its being communicated to the Congress, the correspondence that has taken place between this Department and the Government of Great Britain since November, 1886, and up to the present time, in relation to the treatment of American fishing vessels in the territorial waters of British North America.

This correspondence is accompanied by the protocols of the conferences which preceded the conclusion of the treaty between the United

States and Great Britain, in relation to the subject referred to, and which has been made public by order of the Senate, in accordance with your recommendation.

The documents now transmitted complete the history of the transactions which had as a result the conclusion of the treaty referred to and already published.

The last publication on the subject was contained in the volume of correspondence on foreign relations of 1886, and it is highly important that the entire history of the transactions to which it relates should be brought to the knowledge of the people of the United States, and as soon as possible. An inspection of this documentary history will serve to demonstrate the practical and important results accomplished by the treaty now pending before the Senate, by which the question of the interpretation and administration of the treaty of 1818, between the United States and Great Britain, is transferred and elevated from the obscurity with which it had been suffered to lapse since the date of that convention, and restored from the practical control of minor and local officials of the Canadian maritime provinces.

Until the treaty now pending was concluded no available remedy seems to have been supplied for the inconsistencies, incongruities, and unjustifiable construction of the treaty of 1818 to which our fishermen had for year after year been subjected, and which, by the progress of gradual encroachments of Canadian legislation and local port regulations, had almost converted their privileges, expressly reserved by treaty, into sources of inconvenience and expense.

An examination of the published lists contained in this correspondence and laid before Congress will disclose that the pretexts or causes alleged for the arrests, fines, detentions, and other harassment of American fishing vessels during the years 1886 and 1887, were based upon alleged infractions of the treaty of 1818, or of Canadian laws passed in professed execution of that treaty.

All such vexatious action as is recorded in the list of seizures, etc., is met and rendered impossible of occurrence in the future by the provisions of the treaty now before the Senate; and the amplest enjoyment by United States fishermen of treaty rights, and the customary hospitality due under international law and comity, is secured in the ports and harbors of Eastern Canada and Newfoundland.

The correspondence will serve also to establish the fact that prior to the treaty of reciprocity of 1854, and subsequent to its abrogation, and in the years 1870 and 1871, the vexatious and harassing administration by the Canadian authorities was practiced and unchecked.

As neither the treaty of 1854 nor that of 1871 contained any allusion to the wrongs thus inflicted upon United States fishermen, and as neither convention contained any remedy or provision against their renewal and repetition, it became necessary that such a remedy should no longer be unprovided.

It is believed that such a remedy is practically and fully supplied by the treaty now pending, and that by its terms, now and for the first time since 1818, a just and joint interpretation is agreed to by both governments and placed upon the treaty of 1818, which will secure just and hospitable treatment to the United States fishermen and secure to them unmolested the full measure of their rights under that instrument, and that under the proposed arrangement every American fisherman pursuing his vocation in the waters adjacent to British North America can acquire a clear understanding of his rights and duties while within the jurisdictional waters of Canada or Newfoundland; and

that he may resort to such ports and harbors as casualty, necessity, or convenience may suggest without fear of encountering such harsh and unfriendly treatment as he was heretofore subjected to under uncertain, unwarranted, and variant interpretations of his treaty rights.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,
Washington, March 5, 1888.

List of accompanying papers.

- No. 1. Extract from Foreign Relations, 1887.
- No. 2. Mr. Bayard to Mr. Phelps. No. 659 bis, July 12, 1887, with inclosures.
- No. 3. Protocols of the conferences of the negotiators.

No. 1.

EXTRACT FROM FOREIGN RELATIONS, 1887.

No. 297.

Mr. Bayard to Mr. Phelps.

No. 458.]

DEPARTMENT OF STATE,
Washington, November 12, 1886.

SIR: * * * I have already written you asking whether from the British foreign office you could obtain a copy of the report first made by the officer in command of the Canadian vessel by whom the schooner *David J. Adams* was seized, and you will perceive from the reply of Mr. Graham, who represents the Canadian Government in the suit in the vice-admiralty court at Halifax, that he declines to promise to produce the reports made by these officers at the time of the seizure, in which the causes for such action would naturally be set forth.

In the course of your correspondence or conversation with Lord Idlesleigh it might be well to draw his attention to the difficulties thrown in the way of the American fisherman in not being permitted to learn the nature and extent of the offense with which they were charged, and so be compelled to go to trial without those certainties of allegation which are held in courts of justice to be incumbent upon the claimant before he is entitled to recover in any suit.

It really appears that this method of Canadian procedure is belittling the important principles involved in the international question now under consideration between the United States and Great Britain.

I am, etc.,

T. F. BAYARD.

No. 298.

Mr. Bayard to Mr. Phelps.

No. 459.]

DEPARTMENT OF STATE,
Washington, November 15, 1886.

SIR: The season for taking mackerel has now closed, and I understand the marine police force of the territorial waters in British North America has been withdrawn, so that no further occasion for the administration of a strained and vexatious construction of the convention of 1818, between the United States and Great Britain, is likely for several months at least.

During this period of comparative serenity, I earnestly hope that such measures will be adopted by those charged with the administration of the respective Governments as will prevent the renewal of the proceedings witnessed during the past fishing season in the ports and harbors of Nova Scotia, and at other points in the maritime provinces of the Dominion, by which citizens of the United States engaged in

open-sea fishing were subjected to much unjust and unfriendly treatment by the local authorities in those regions, and thereby not only suffered serious loss in their legitimate pursuit, but, by the fear of annoyance, which was conveyed to others likewise employed, the general business of open-sea fishing by citizens of the United States was importantly injured.

My instructions to you during the period of these occurrences have from time to time set forth their regrettable character, and they have also been brought promptly to the notice of the representative of Her Majesty's Government at this capital.

These representations, candidly and fully made, have not produced those results of checking the unwarranted interference (frequently accompanied by rudeness and an unnecessary demonstration of force) with the rights of our fishermen guaranteed by express treaty stipulations, and secured to them—as I confidently believe—by the public commercial laws and regulations of the two countries, and which are demanded by the laws of hospitality to which all friendly civilized nations owe allegiance. Again I beg that you will invite Her Majesty's counselors gravely to consider the necessity of preventing the repetition of conduct on the part of the Canadian officials which may endanger the peace of two kindred and friendly nations.

To this end, and to insure to the inhabitants of the Dominion the efficient protection of the exclusive rights to their inshore fisheries, as provided by the convention of 1818, as well as to prevent any abuse of the privileges reserved and guaranteed by that instrument forever to the citizens of the United States engaged in fishing, and responding to the suggestion made to you by the Earl of Iddesleigh, in the month of September last, that a *modus vivendi* should be agreed upon between the two countries to prevent encroachment by American fishermen upon the Canadian inshore fisheries, and equally to secure them from all molestation when exercising only their just and ancient rights, I now inclose the draft of a memorandum which you may propose to Lord Iddesleigh, and which, I trust, will be found to contain a satisfactory basis for the solution of existing difficulties, and assist in securing an assured, just, honorable, and, therefore, mutually satisfactory settlement of the long-vexed question of the North Atlantic fisheries.

I am encouraged in the expectation that the propositions embodied in the memorandum referred to will be acceptable to Her Majesty's Government, because, in the month of April, 1866, Mr. Seward, then Secretary of State, sent forward to Mr. Adams, at that time United States minister in London, the draft of a protocol which in substance coincides with the first article of the proposal now sent to you, as you will see by reference to Vol. 1 of the U. S. Diplomatic Correspondence for 1866, p. 98 *et seq.*

I find that, in a published instruction to Sir F. Bruce, then Her Majesty's minister in the United States, under date of May 11, 1866, the Earl of Clarendon, at that time Her Majesty's secretary of state for foreign affairs, approved them, but declined to accept the final proposition of Mr. Seward's protocol, which is not contained in the memorandum now forwarded.

Your attention is drawn to the great value of these three propositions, as containing a well-defined and practical interpretation of Article 1 of the convention of 1818, the enforcement of which co-operatively by the two Governments, it may reasonably be hoped, will efficiently remove those causes of irritation of which variant constructions hitherto have been so unhappily fruitful.

In proposing the adoption of a width of ten miles at the month as a proper definition of the bays in which, except on certain specified coasts, the fishermen of the United States are not to take fish, I have followed the example furnished by France and Great Britain in their convention signed at Paris, on the 2d of August, 1839. This definition was referred to and approved by Mr. Bates, the umpire of the commission under the treaty of 1853, in the case of the United States fishing schooner *Washington*, and has since been notably approved and adopted in the convention signed at The Hague, in 1882, and subsequently ratified, in relation to fishing in the North Sea, between Germany, Belgium, Denmark, France, Great Britain, and the Netherlands.

The present memorandum also contains provisions for the usual commercial facilities allowed everywhere for the promotion of legitimate trade, and nowhere more fully than in British ports and under the commercial policies of that nation. Such facilities can not with any show of reason be denied to American fishing-vessels when plying their vocations in deep-sea fishing grounds in the localities open to them equally with other nationalities. The convention of 1818 inhibits the "taking, drying, or curing fish" by American fishermen in certain waters and on certain coasts, and when these objects are effected, the inhibitory features are exhausted. Everything that may presumably guard against an infraction of these provisions will be recognized and obeyed by the Government of the United States, but should not be pressed beyond its natural force.

By its very terms and necessary intentment, the same treaty recognizes the continuance permanently of the accustomed rights of American fishermen, in those places not embraced in the renunciation of the treaty, to prosecute the business as freely as did their forefathers.

No construction of the convention of 1818 that strikes at or impedes the open-sea fishing by citizens of the United States can be accepted, nor should a treaty of friendship be tortured into a means of such offense, nor should such an end be accomplished by indirection. Therefore, by causing the same port regulations and commercial rights to be applied to vessels engaged therein as are enforced relative to other trading craft, we propose to prevent a ban from being put upon the lawful and regular business of open-sea fishing.

Arrangements now exist between the Governments of Great Britain and France, and Great Britain and Germany, for the submission in the first instance of all cases of seizure to the joint examination and decision of two discreet and able commanding officers of the navy of the respective countries, whose vessels are to be sent on duty to cruise in the waters to be guarded against encroachment. Copies of these agreements are herewith inclosed for reference. The additional feature of an umpire in case of a difference of opinion is borrowed from the terms of Article 1 of the treaty of June 5, 1854, between the United States and Great Britain.

This same treaty of 1854 contains in its first article provision for a joint commission for marking the fishing limits, and is therefore a precedent for the present proposition.

The season of 1886 for inshore fishing on the Canadian coasts has come to an end, and assuredly no lack of vigilance or promptitude in making seizures can be ascribed to the vessels or the marine police of the Dominion. The record of their operations discloses but a single American vessel found violating the inhibitions of the convention of 1818, by fishing within three marine miles of the coast. The numerous seizures made have been of vessels quietly at anchor in established

ports of entry, under charges which, up to this day, have not been particularized sufficiently to allow of an intelligent defense. Not one has been condemned after trial and hearing, but many have been fined without hearing or judgment, for technical violations of alleged commercial regulations, although all commercial privileges have been simultaneously denied to them. In no instance has any resistance been offered to Canadian authority, even when exercised with useless and irritating provocation.

It is trusted that the agreement now proposed may be readily accepted by Her Majesty's ministry.

Should the Earl of Iddesleigh express a desire to possess the text of this dispatch, in view of its intimate relation to the subject-matter of the memorandum and as evidencing the sincere and cordial disposition which prompts this proposal, you will give his lordship a copy.

I am, sir, your obedient servant,

T. F. BAYARD.

[Inclosure 1 in No. 459.]

Proposals for settlement of all questions in dispute in relation to the fisheries on the north-eastern coasts of British North America.

Whereas in the first article of the convention between the United States and Great Britain, concluded and signed in London on the 20th of October, 1818, it was agreed between the high contracting parties "that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks, from Mount Joly on the southern coast of Labrador to and through the Straits of Belleisle; and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, here above described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground;" and was declared that "the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within 3 marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and obtaining water, and for no other purpose whatever. But they shall be under such restriction as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them;" and whereas differences have arisen in regard to the extent of the above-mentioned renunciation, the Government of the United States and Her Majesty the Queen of Great Britain, being equally desirous of avoiding further misunderstanding, agree to appoint a mixed commission for the following purposes, namely:

(1) To agree upon and establish by a series of lines the limits which shall separate the exclusive from the common right of fishing on the coasts and in the adjacent waters of the British North American colonies, in conformity with the first article of the convention of 1818, except that the bays and harbors from which American fishermen are in the future to be excluded, save for the purposes for which entrance into bays and harbors is permitted by said article, are hereby agreed to be taken to be such bays and harbors as are 10 or less than 10 miles in width, and the distance of 3 marine miles from such bays and harbors shall be measured from a straight line drawn across the bay or harbor, in the part nearest the entrance, at the first point where the width does not exceed 10 miles; the said lines to be regularly numbered, duly described, and also clearly marked on charts prepared in duplicate for the purpose.

(2) To agree upon and establish such regulations as may be necessary and proper to secure to the fishermen of the United States the privilege of entering bays and harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and to agree upon and establish such restrictions as may be necessary to prevent the abuse of the privilege reserved by said convention to the fishermen of the United States.

(3) To agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial and judgment with as little expense as possible, for the violators of rights and the transgressors of the limits and restrictions which may be hereby adopted:

Provided, however, that the limits, restrictions, and regulations which may be agreed upon by the said commission shall not be final, nor have any effect until so jointly confirmed and declared by the United States and Her Majesty the Queen of Great Britain, either by treaty or by laws mutually acknowledged.

ARTICLE II.

Pending a definitive arrangement on the subject, Her Britannic Majesty's Government agree to instruct the proper colonial and other British officers to abstain from seizing or molesting fishing vessels of the United States unless they are found within three marine miles of any of the coasts, bays, creeks, and harbors of Her Britannic Majesty's dominions in America, there fishing, or to have been fishing, or preparing to fish within those limits, not included within the limits within which, under the treaty of 1818, the fishermen of the United States continue to retain a common right of fishery with Her Britannic Majesty's subjects.

ARTICLE III.

For the purpose of executing Article I of the convention of 1818, the Government of the United States and the Government of Her Britannic Majesty hereby agree to send each to the Gulf of St. Lawrence a national vessel, and also one each to cruise during the fishing season on the southern coasts of Nova Scotia. Whenever a fishing vessel of the United States shall be seized for violating the provisions of the aforesaid convention by fishing or preparing to fish within three marine miles of any of the coasts, bays, creeks, and harbors of Her Britannic Majesty's dominions included within the limits within which fishing is by the terms of the said convention renounced, such vessel shall forthwith be reported to the officer in command of one of the said national vessels, who, in conjunction with the officer in command of another of said vessels of the different nationality, shall hear and examine into the facts of the case. Should the said commanding officers be of opinion that the charge is not sustained, the vessel shall be released. But if they should be of opinion that the vessel should be subjected to a judicial examination, she shall forthwith be sent for trial before the vice-admiralty court at Halifax. If, however, the said commanding officers should differ in opinion, they shall name some third person to act as umpire between them, and should they be unable to agree upon the name of such third person, they shall each name a person, and it shall be determined by lot which of the two persons so named shall be the umpire.

ARTICLE IV.

The fishing vessels of the United States shall have in the established ports of entry of Her Britannic Majesty's dominions in America the same commercial privileges as other vessels of the United States, including the purchase of bait and other supplies; and such privileges shall be exercised subject to the same rules and regulations and payment of the same port charges as are prescribed for other vessels of the United States.

ARTICLE V.

The Government of Her Britannic Majesty agree to release all United States fishing vessels now under seizure for failing to report at custom-houses when seeking shelter, repairs, or supplies, and to refund all fines exacted for such failure to report. And the high contracting parties agree to appoint a joint commission to ascertain the amount of damage caused to American fishermen during the year 1886 by seizure and detention in violation of the treaty of 1818, said commission to make awards therefor to the parties injured.

ARTICLE VI.

The Government of the United States and the Government of Her Britannic Majesty agree to give concurrent notification and warning of Canadian customs regulations, and the United States agrees to admonish its fishermen to comply with them, and co-operate in securing their enforcement.

[Inclosure 2 in No. 459.—Translation.]

Arrangement between France and Great Britain concerning the Newfoundland fisheries, November 14, 1885.

ARRANGEMENT.

The undersigned commissioners delegated by the Governments of France and Great Britain, to the end of seeking—apart from the treaties now in force which they are not authorized either to modify or to interpret—the means of preventing and settling differences relative to the use of the fisheries on the coasts of Newfoundland, have drawn up by common accord, under reserve of the approbation of their respective Governments, the following engagements [*dispositions*]

ARTICLE I.

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engage to conform to the hereinafter expressed provisions for assuring to French fishermen, in the execution of existing treaties and particularly the declaration of 1783, the free exercise of their industry upon the coasts of Newfoundland without hinderance or obstacle of any kind on the part of British subjects

ARTICLE II.

The Government of the French Republic engages for its part, in exchange for the assurance granted to the French fishermen by the application of the provisions set forth in the present arrangement, not to make any remonstrance against the creation of the establishments necessary to the development of any industry other than that of the fisheries, upon the parts of the coast of Newfoundland comprised between Cape St. John and Cape Ray, marked in red upon the map hereto annexed and which also are not mentioned in the schedule, hereto annexed, comprising the portions of territory to which the present paragraph does not apply.

It likewise engages not to disturb the resident British subjects in respect of establishments actually set up on the coast comprised between Cape St. John and Cape Ray to the northward of each cape. But new establishments shall not be set up on the parts of the coast comprised in the schedule mentioned in the foregoing paragraph.

ARTICLE III.

Notwithstanding the interdiction stipulated in the closing part of the second paragraph of the foregoing article, in case a mine be found in the neighborhood of any part of the coast comprised in the schedule annexed to the present arrangement, the Government of the French Republic engages not to oppose the enjoyment by the interested parties, in order to work the said mine, of all facilities compatible with the free exercise of the French fisheries.

To this end a wharf may be established on a point of the coast designated by common accord by the commanders of the cruisers of the two countries.

The buildings necessary to the working of the mine, such as dwelling-houses, workshops, storehouses, etc., shall be erected on the part of the territory situated outside the limits fixed in the annexed schedule for the exercise of the French fishery. They shall be connected with the wharf by a single line of railway, of one or two tracks.

To the end of facilitating the operations of lading and unlading, sheds and store-houses may, nevertheless, be constructed on both sides of the railway for the temporary storage of ore and materials necessary for the mine, within a space not to exceed 15 meters on each side of the track, such space to be surrounded by a fence or inclosure of some kind.

No establishment other than the wharf, the railway, and the sheds and store-houses above mentioned, can, under the final provision of the second paragraph of the foregoing article, be set up on the part of the coast reserved for fishing, within the limits fixed in the schedule hereto annexed.

The provisions of the present article shall be likewise applied to the working of a mine outside of these limits, on condition that it shall have been previously ascertained, by common accord, by the commanders of the cruisers of the two countries, that the working of such mine shall not be of a nature to hinder the free exercise of the French fishery.

ARTICLE IV.

It is agreed that the French shall retain, to the fullest extent, upon all that part of the coast comprised between Cape St. John and Cape Ray, and as it is defined by the

treaties, the right to take, dry, and cure fish [*le droit de pêcher, sécher, préparer le poisson*] as well as the right to cut, anywhere save in inclosed properties, the wood necessary for their drying-stages, cabins, and fishing-vessels.

ARTICLE V.

The surveillance and police of the fisheries shall be exercised by vessels of the military marine of the two countries, under the conditions hereinafter laid down—the commanders of the cruisers having, under these conditions, sole authority and competence in all matters concerning the fisheries and the operations pertaining thereto.

ARTICLE VI.

The French and English fishing vessels or boats shall be registered according to the administrative regulations of the country to which they belong, and shall plainly carry distinctive marks permitting their identity to be ascertained from a distance.

The captains, masters, or skippers [*patrons*] shall carry papers to prove the nationality of their vessels or boats.

ARTICLE VII.

The commanders of the cruisers of each nation shall mutually give information of infractions of the rules established by the foregoing article, which may be committed by the vessels or boats of the other nation.

ARTICLE VIII.

The cruising vessels of the two countries shall be competent to ascertain an infraction of existing treaties, particularly of the declaration of 1783, by the terms whereof the British subjects shall not "interrupt in any manner, by their competition, the fishery of the French during the temporary exercise of it which is granted to them, upon the coasts of the island of Newfoundland."

ARTICLE IX.

Upon the complaint of the French fishermen, or upon their application for the enjoyment of their fishing right, the commanders of the English cruising vessels will oppose—and if there be no English cruiser in sight the commanders of the French cruisers may oppose—all operations of fishing by British subjects which may interfere with the industry of said French fishermen; they will remove the boats or vessels which may be an obstacle to such industry.

To this end the commanders of the French cruising vessels may serve the necessary injunctions upon the parties in interest, and, in case of resistance, seize their fishing-tackle implements (*engins de pêche*) and set the same on shore or deliver them up to the commanders of the cruisers of Her Britannic Majesty.

In case no inconvenience shall be found to result for the French fishermen and when no complaint or demand shall have been made on their part looking to the unimpeded use of their right of fishing, the commanders of the French cruisers will not oppose the exercise of the fisheries by British subjects.

ARTICLE X.

In the event of the natives hindering or molesting on land, by their acts, the drying and curing of fish and in general the diverse operations which depend upon the exercise of the French fisheries on the coast of Newfoundland, a statement of proof of the damage caused shall be drawn up by the commanders of Her Britannic Majesty's cruising vessels, and in their absence by the commanders of the French cruisers.

In this latter case, the statement shall be admissible as evidence before the commanders of Her Britannic Majesty's cruisers, in their capacity as magistrates in administering justice.

ARTICLE XI.

If an offense is committed, or an injury caused, the commanders of the cruising vessels of the delinquent's nationality, and in their absence the commanders of the cruising vessels of the plaintiff's nationality, shall estimate the gravity of the facts brought to their cognizance and assess the damage suffered by the party aggrieved.

They shall draw up, in the due case, and according to the forms usual in their country, statements in evidence of the facts such as they shall appear, whether from the declarations of the interested parties or from the testimony collected.

The statement shall be admissible as evidence before the commanders of the cruisers of the delinquent's nationality, within the limits of their competence.

If the case seem to him sufficiently grave to justify such a step, the commander of the cruising vessel of the plaintiff's nationality shall have the right—if there be not in sight any cruiser of the delinquent's nationality—to take into custody (*s'assurer de*) either the delinquent in person or his boat, in order to deliver them up to the commanders of the cruising vessels of their nationality.

ARTICLE XII.

The commanders of the English and French cruising vessels shall, within the limits of their competence, administer justice summarily [*faire droit d'urgence*] upon the complaints brought before them, whether preferred directly by the interested party or through the medium of the commanders of the cruisers of the other nation.

ARTICLE XIII.

Resistance to the orders or injunctions of the commanders of the cruising vessels charged with the police of the fisheries, or of persons acting under their orders, shall, without reference to the nationality of the cruiser, be deemed resistance to the competent authority to the end of repressing the act charged.

ARTICLE XIV.

When the act charged is not grave, but, nevertheless, shall have occasioned damage, the commanders of the cruising vessels may adjust the dispute [*concilier*] between the interested parties, and fix the indemnity to be paid, with the consent of the parties.

ARTICLE XV.

The French Government renounces, for its citizens, the salmon fishery in running waters, and does not reserve the fishery for this fish, save at sea and in the mouths of rivers as far as salt-water extends; but it is forbidden to set fixed barriers which may impede lateral navigation or the free passage of fish.

ARTICLE XVI.

French fishermen shall be exempt from any tax upon the introduction into that part of the island of Newfoundland comprised between Cape St. John and Cape Ray and to the northward of those capes, of all objects, materials, provisions, etc., necessary to their industry, their subsistence, and their temporary establishment upon the coast of that Britannic possession.

They shall, likewise, be exempt in that same part of the island, from all light-house, port, or other navigation dues.

ARTICLE XVII.

The French fishermen shall have the right to buy bait, herring and caplin, on land or at sea, in the harbors of Newfoundland, without tax or impediment of any kind, after the 5th day of April of each year, and until the end of the fishing season.

ARTICLE XVIII.

The employment of French subjects, at the rate of one guardian, with his family, for each harbor, is authorized in order to guard the French establishments during the cessation of the fishing season.

In the harbors of large extent where the temporary establishments of French citizens are too far apart to permit of one guardian watching over the establishments, the presence of a second guardian with his family will be authorized.

ARTICLE XIX.

Every fishing vessel, every article of equipment or rigging of a fishing vessel, and every net, line, buoy, or implement, whatever, which may have been found or picked up, shall be as soon as possible delivered to the competent authorities of the nation of the salvor.

The articles found shall be restored to the owners or their representatives through the care of the said competent authorities and under reserve of the prior guarantee of the salvors' rights.

The indemnity to be paid to the salvors shall be fixed in conformity with the legislation of their country.

ARTICLE XX.

The provisions of the present arrangement, with the exception of those of Articles 1, 2, and 18, shall only be applicable within the season during which the treaties grant to Frenchmen the right of taking and curing fish.

In witness whereof the undersigned commissioners have drawn up the present arrangement, subject to the approval of their respective Governments, and hereunto set their names.

Done at Paris, in duplicate, the 14th November, 1885.

CH. JAGERSCHMIDT.

BIGREL.

FRANCIS CLARE FORD.

EDMUND BURKE PENNELL.

[Inclosure 3 in No. 459.]

TREATIES BETWEEN GREAT BRITAIN AND FRANCE RELATIVE TO THE NEWFOUNDLAND FISHERY; RENEWED BY ARTICLE 13 OF THE TREATY OF PEACE OF 30TH MAY, 1841. (PAGE 162.)

(1) *Treaty of peace and friendship between Great Britain and France, the 11th April, 1713.*

[Extract.—Translation.]

13. The island called Newfoundland, with the adjacent islands, shall from this time forward belong of right wholly to Britain; and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up within seven months from the exchange of the ratifications of this treaty, or sooner if possible, by the Most Christian King, to those who have a commission from the Queen of Great Britain for that purpose. Nor shall the most Christian King, his heirs and successors, or any of their subjects, at any time hereafter lay claim to any right to the said island or islands, or to any part of it or them. Moreover it shall not be lawful for the subjects of France to fortify any place in the said island of Newfoundland, or to erect any buildings there, besides stages made of boards and huts necessary and usual for drying of fish, or to resort to the said island beyond the time necessary for fishing and drying of fish.

But it shall be allowed to the subjects of France to catch fish and to dry them on land, in that part only, and in no other besides that, of the said island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton as also all others, both in the mouth of the river of St. Lawrence and in the Gulf of the same name, shall hereafter belong of right to the French; and the most Christian King shall have all manner of liberty to fortify any place or places there.

Done at Utrecht, 31st March (11th April), 1713.

[L. S.]
[L. S.]
[L. S.]
[L. S.]

JOHN BRISTOL, C. P. S.
STRAFFORD.
HUXELLES.
MESNAGER.

(2) *Definitive treaty of peace between Great Britain and France. Signed at Paris, 10th February, 1763.*

[Extract.—Translation.]

V. The subjects of France shall have the liberty of fishing and drying, on a part of the coasts of the island of Newfoundland, such as it is specified in Article 13 of the treaty of Utrecht; which article is renewed and confirmed by the present treaty (except what relates to the island of Cape Breton, as well as the other islands and coasts in the month and in the Gulf of St. Lawrence). And his Britannic Majesty consents to leave to the subjects of the Most Christian King the liberty of fishing in the Gulf St. Lawrence on condition that the subjects of France do not exercise the said fishery, but at the distance of 3 leagues from all the coasts belonging to Great Britain, as well those of the Continent as those of the islands situated in the said Gulf St. Lawrence. And as to what relates to the fishery on the coasts of the island

of Cape Breton out of the said Galph, the subjects of the most Christian King shall not be permitted to exercise the said fishery but at the distance of 15 leagues from the coasts of the island of Cape Breton; and the fishery on the coasts of Nova Scotia or Acadia, and everywhere else out of the said Galph, shall remain on the foot of former treaties.*

VI. The King of Great Britain cedes the islands of St. Pierre and Miquelon, in full right, to his Most Christian Majesty, to serve as a shelter to the French fishermen; and His said Most Christian Majesty engages not to fortify the said buildings upon them but merely for the convenience of the fishery, and to keep upon them a guard of fifty men only for the police.

Done at Paris, the 10th of February, 1763.

[L. s.]
[L. s.]
[L. s.]

BEDFORD, C. P. S.
CHOISEUL, Duc de Praslin.
EL MARQ. DE GRIMALDI.

(3) *Definitive treaty of peace between Great Britain and France. Signed at Versailles, 3d September, 1763.*

[Extract.—Translation.]

IV. His Majesty the King of Great Britain is maintained in his right to the island of Newfoundland and to the adjacent islands, as the whole were assured to him by the 13th article of the treaty of Utrecht, excepting the island of St. Pierre and Miquelon, which were ceded in full right by the present treaty to His Most Christian Majesty.

V. His Majesty the Most Christian King, in order to prevent the quarrels which have hitherto arisen between the two nations of England and France, consents to renounce the right of fishing, which belongs to him in virtue of the aforesaid article of the treaty of Utrecht, from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in 50° north latitude; and His Majesty the King of Great Britain consents on his part that the fishery assigned to the subjects of His Most Christian Majesty, beginning at the said Cape St. John, passing to the north and descending by the western coast of the island of Newfoundland, shall extend to the place called Cape Raye, situated in 47° 50' latitude. The French fishermen shall enjoy the fishery which is assigned to them by the present article as they had the right to enjoy that which was assigned to them by the treaty of Utrecht.

VI. With regard to the fishery in the Gulf of St. Lawrence, the French shall continue to exercise it conformably to the Vth article of the treaty of Versailles.

Done at Versailles, the 3d of September, 1763.

[L. s.]
[L. s.]

MANCHESTER.
GRAVIER DE VERGENNES.

(Annex 1.) *British declaration. Signed at Versailles 3d September, 1763.*

[Extract.]

The King having entirely agreed with His Most Christian Majesty upon the articles of the definitive treaty, will seek every means which shall not only insure the

* Extract from the treaty of peace between Great Britain and France. Signed at Whitehall, 16th November, 1686:

V. The subjects, inhabitants, merchants, commanders of ships, masters and mariners of the kingdoms, provinces, and dominions of each King, respectively, shall abstain and forbear to trade and fish in all the places possessed or which shall be possessed by one or the other party in America, viz, the King of Great Britain's subjects shall not drive their commerce and trade, nor fish in the havens, bays, creeks, roads, shoals, or places which the Most Christian King holds or shall hereafter hold in America; and in like manner the Most Christian King's subjects shall not drive their commerce and trade, nor fish in the havens, bays, creeks, roads, shoals, or places which the King of Great Britain possesses or shall hereafter possess in America. And if any ship or vessel shall be found trading or fishing contrary to the tenor of this treaty, the said ship or vessel, with its lading proof being made thereof, shall be confiscated; nevertheless, the party who shall find himself aggrieved by such sentence or confiscation shall have liberty to apply himself to the privy council of that king by whose governors or judges the sentence has been given against him; but it is always to be understood that the liberty of navigation ought in no manner to be disturbed where nothing is committed against the genuine sense of this treaty.

execution thereof with his accustomed good faith and punctuality, but will besides give on his part all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.

To this end, and in order that the fisherman of the two nations may not give cause for daily quarrels, His Britannic Majesty will take the most positive measures for preventing his subjects from interrupting in any manner, by their competition, the fishery of the French during the temporary exercise of it which is granted to them upon the coasts of the island of Newfoundland; and he will, for this purpose, cause the fixed settlements which shall be found there to be removed. His Britannic Majesty will give orders that the French fishermen be not incommoded in cutting the wood necessary for the repair of their scaffolds, huts, and fishing vessels.

The thirteenth article of the treaty of Utrecht, and the method of carrying on the fishery, which has at all times been acknowledged, shall be the plan upon which the fishery shall be carried on there; it shall not be deviated from by either party; the French fishermen building only their scaffolds, confining themselves to the repair of their fishing vessels, and not wintering there; the subjects of His Britannic Majesty, on their part, not molesting, in any manner, the French fishermen during their fishing, nor injuring their scaffolds during their absence.

The King of Great Britain, in ceding the islands of St. Pierre and Miquelon to France, regards them as ceded for the purpose of serving as a real shelter to the French fishermen, and in full confidence that these possessions will not become an object of jealousy between the two nations; and that the fishery between the said islands and that of Newfoundland shall be limited to the middle of the channel.

Given at Versailles the 3d of September, 1783.

[L. S.]

MANCHESTER.

(*Annex 2.*) *French counter-declaration. Signed at Versailles 3d September, 1783.*

[Extract.]

The principles which have guided the King, in the whole course of the negotiations which preceded the re-establishment of peace, must have convinced the King of Great Britain that His Majesty has had no other design than to render it solid and lasting, by preventing as much as possible, in the four quarters of the world, every subject of discussion and quarrel. The King of Great Britain undoubtedly places too much confidence in the uprightness of His Majesty's intentions not to rely upon his constant attention to prevent the islands of St. Pierre and Miquelon from becoming an object of jealousy between the two nations.

As to the fishery on the coasts of Newfoundland, which has been the object of the new arrangements settled by the two sovereigns upon this matter, it is sufficiently ascertained by the fifth article of the treaty of peace signed this day and by the declaration likewise delivered to-day by His Britannic Majesty's ambassador extraordinary and plenipotentiary; and His Majesty declares that he is fully satisfied on this head.

In regard to the fishery between the island of Newfoundland and those of St. Pierre and Miquelon, it is not to be carried on by either party but to the middle of the channel. His Majesty will give the most positive orders that the French fishermen shall not go beyond this line. His Majesty is firmly persuaded that the King of Great Britain will give like orders to the English fishermen.

Given at Versailles the 3d of September, 1783.

[L. S.]

GRAVIER DE VERGENNES.

[Inclosure 4 in No. 459.]

Mr. Seward to Mr. Adams.

No. 1737.]

DEPARTMENT OF STATE,
Washington, April 10, 1866.

Sir: I send you a copy of a very suggestive letter from Mr. Richard D. Cutts, who, perhaps, you are aware, was employed as surveyor for marking, on the part of the United States, the fishery limits under the reciprocity treaty. Mr. Cutts's long familiarity with that subject practically and theoretically entitles his suggestions to respect.

It is desirable to avoid any collision or misunderstanding with Great Britain on the subject growing out of the termination of the reciprocity treaty. With this view I inclose a draught of a protocol, which you may propose to Lord Clarendon for a temporary regulation of the matter. If he should agree to it, it may be signed. When

signed it is desirable that the instructions referred to in the concluding paragraph should at once be dispatched by the British Government.

As the fishing season is at hand, the collisions which might be apprehended may occur when that season advances.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Mr. Cutts to Mr. Seward.

WASHINGTON, April 7, 1865.

SIR: For a full understanding of the differences which now exist in regard to the rights which belong to American fishermen in the seas bordering the British North American colonies it is necessary to refer to the treaties and negotiations which preceded the convention of 1818, so far as they relate to the fisheries.

DEFINITIVE TREATY OF PEACE, 1783.

ARTICLE 3. "It is agreed that the people of the United States shall continue to enjoy, unmolested, the right to take fish of any kind on the Grand Bank, and on all the other banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish; and, also, that they shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, but not to dry or cure the same on that island; and also on the coasts, bays, and creeks of all other of His Britannic Majesty's dominions in America."

In the treaty of Ghent, terminating the last war with Great Britain, no allusion was made to the subject of the fisheries.

In July, 1815, complaint was made that American fishing vessels, engaged in the cod-fishery off the coast of Nova Scotia, had been ordered away by a British sloop-of-war, and this act, while it was declared to be totally unauthorized by His Majesty's Government, led to a correspondence between our minister at London (John Quincy Adams) and Lord Bathurst, in which the United States adhered to the right and liberty of fishing as secured by the treaty of 1783, on the ground that those rights and liberties were not grants from the King, but the permanent results of a partition of rights at the time of the separation of the two countries, and contended, therefore, that they could not be impaired by a state of war. On the other side it was asserted that while the right described in the treaty may not have been impaired, the "liberties" were a concession dependent on the treaty, and as the treaty was abrogated by the war, so also were the "liberties."

CONVENTION OF 1818.

At the third conference held between the American and British plenipotentiaries—Messrs. Gallatin and Rush on the part of the United States, and Messrs. Robinson and Goldburn on the part of Great Britain—the former presented a proposition in regard to the fisheries in almost the identical language of the first article of the convention afterwards adopted, with the understanding that the liberty of fishing therein described should be considered as a permanent right, and not to be abrogated by the mere fact of a war between the two parties.

At the fifth conference a counter project was submitted by the British plenipotentiaries not materially differing from the above, except that the renunciatory clause was omitted, and the following paragraph added:

"And in order the more effectually to guard against smuggling, it shall not be lawful for vessels of the United States engaged in the said fishery to have on board any goods, wares, or merchandise whatever, except such as may be necessary for the prosecution of the fishery, a support of the fisherman while engaged therein or in the prosecution of their voyages to and from the said fishing grounds. And any vessel of the United States which shall contravene this regulation may be seized, condemned, and confiscated, together with her cargo."

In regard to this paragraph, and to another referring to fishing at the mouths of rivers, Messrs. Gallatin and Rush presented the following remarks:

"Whatever extent of fishing ground may be secured to American fishermen, the American plenipotentiaries are not prepared to accept it on a tenure, or on conditions different from those on which the whole has been heretofore held. Their instructions did not anticipate that any new terms or restrictions should be annexed, as none were suggested in the proposals made by Mr. Bagot to the American Government. The clauses forbidding the spreading of nets, and making vessels liable to confiscation, in

case any articles not wanted for carrying on the fishery should be found on board, are of that description, and would expose the fishermen to endless vexations."

At the seventh conference, held on the 13th October, 1818, the British plenipotentiaries submitted a second counter project, conforming with the views and free from the obligations presented by Messrs. Gallatin and Rush, and this project, being agreed to, constituted the first article of the convention, as follows:

"Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of said United States shall have forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea Islands, on the western and northern coast of Newfoundland from the said Cape Ray to the Quirpon Islands, on the northern coast of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks, from Mount Goly, on the southern coast of Labrador, and through the Straits of Belle Isle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador. But, so soon as the same or any portion thereof shall be settled it shall not be lawful for the said fishermen to dry or cure fish at any such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground; and the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish, or within 3 marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

The differences which have heretofore arisen between the United States and Great Britain, touching the exercise of the rights and liberties secured to American fishermen, may be classed under two principal heads:

1. As to the construction of the renunciatory clause of the convention.

Under this clause Great Britain has contended that no American fisherman has the right to fish within 3 marine miles of the entrance to any "bay," which "from its geographical position may be properly considered as included within the British possessions," and that the entrance to such bay must be designated by a line drawn from headland to headland. In support of this construction it has been urged that "if the convention was intended to stipulate simply that American fishermen should not take fish within 3 miles of the coast, there was no occasion for using the word *bay* at all, but the proviso at the end of the article shows that the word '*bay*' was used designedly, for it is expressly stated in that proviso that, under certain circumstances, the American fishermen can enter *bays*, by which is evidently meant that they may, under these circumstances, pass the sea line which forms the entrance to the bay."

According to this construction, so undefined and indefinite, the bays of Fundy and Chaleur, or any extent of the sea lying between distant headlands, may be reserved under the name of bay, for the exclusive use of British fishermen.

The United States are firmly opposed to such a construction, believing it to be totally unauthorized by the language or intention of the convention, or by the right acquired by usage. In the opinion of this Government, repeatedly announced at different periods, the American fishermen have a clear right to the use of the fishing grounds lying off the provincial coasts, whether in the main ocean or in the inland seas, provided they do not approach within 3 marine miles of such coasts or of the entrance to any bay, creek, or harbor not more than 6 miles in width; and to such bays only does the renunciatory clause in the first article apply. They object to the British construction on the ground that, if such arms of the sea as the bays of Fundy and Chaleur, or such curves in the coast as the bay of Miramichi, or such part of the sea included between headlands as the wide indentation of the coast of Cape Breton, lying between Cape North and Cape Percy, were the "bays" renounced, there would be an inconsistency, if not a clear contradiction, in the very next sentence of the article, which authorizes American fishermen "to enter *such bays* for the purpose of shelter and of repairing damages." It can hardly be contended that "shelter" can be obtained in the bay of Fundy, an arm of the sea 40 miles wide and 100 in length, or that either shelter, wood, or water can be obtained, or damages repaired, in the

curve of the coast between the headlands of St. Esenmenac and Blackland Point, designated on the chart as the bay of Miramichi. It is objected to, also, for the reason that it would permit the drawing of lines anywhere in the gulf or on the coast from headland to headland, any one of which could be made to embrace, at one sweep, many bays, creeks, and harbors, besides a portion of the high seas, and from which the American fishermen could be kept an indefinite distance, and be thereby driven from the fishing grounds.

Moreover, it is believed that while the British construction is not necessary to secure to the people of the provinces the inshore fisheries, or to protect their rights of property, or their territorial jurisdiction, all of which are amply secured by the 3 marine miles restriction, it would materially restrict the full enjoyment of the right which we possessed before the Revolution, which was acknowledged in the definitive treaty of peace, which was not affected by the treaty of Ghent, and which, according to the decision of Great Britain, expressed in the correspondence which preceded the convention, was not abrogated by the war of 1812. That right is "to take fish" of any kind "in the gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish." No construction liable to such indefinite extension or application can be correct or be allowed.

In 1845 Her Majesty's Government receded from the above position, so far as the bay of Fundy is concerned, and from that date our right of fishery in that bay has not been a matter of dispute. It is now open to American fishermen, to be used in the same manner as the more open sea; provided, however, that they do not take fish within 3 marine miles of the coasts or of the entrance to any bay, creek, or harbor of Nova Scotia or New Brunswick, between which two provinces that arm of the sea extends.

2. As to the restrictions imposed by the colonies to prevent the privileges of shelter, etc., from being abused by American fishermen.

The fishermen of the United States are frequently compelled by rough weather, or by injuries to their vessels received in a gale, or in consequence of collision or other accident, to seek the nearest port for shelter and repairs. And it is also necessary at stated intervals, while they are engaged during the summer and fall in following their avocation, that they should take on board a resupply of wood and water; and for either of these purposes they have the right, so long as the convention continues in force, to resort to the bays and harbors of the different provinces.

Some of the colonial laws, especially those of Nova Scotia, enacted to prevent the abuse of these privileges, are of such a stringent character as to almost annul the right, or make it at least hazardous for American fishermen to attempt to enjoy it. Seizures are made on the slightest suspicion, or on false pretences or charges; heavy bonds are required before suit can be instituted to recover; the owner of the vessel must bring the charges, and if unsuccessful, he is mulcted in treble costs, besides the loss of vessel and cargo.

In this connection it must be borne in mind that a proposition was made to introduce into the convention a stipulation that "it shall not be lawful for the vessels of the United States, engaged in the said fishery, to have on board any goods, wares, or merchandise whatever, except such as may be necessary for the prosecution of the fishery or support of the fishermen," etc., and that this proposed stipulation having been objected to by Messrs. Gallatin and Rush, on the ground that it "would expose our fishermen to endless vexations," it was withdrawn by the British plenipotentiaries.

Such was the condition of the controversy between the United States and Great Britain as to the limits of our right of fishery on the provincial coasts, and such the severe restrictions, amounting almost to prohibition, on the privilege of entering bays and harbors for shelter, wood, or water, previous to 1854, the date of the late reciprocity treaty with Great Britain. That treaty having expired on the 17th of March last, the American fishermen must fall back on their rights, as thus explained and as heretofore enjoyed.

I have the honor to be, very respectfully, your obedient servant,

RICHARD D. CUTTS.

[PROTOCOL.]

Whereas in the first article of the convention between the United States and Great Britain, concluded and signed in London on the 20th of October, 1818, it was declared that "the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within 3 marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within certain limits heretofore mentioned;" and whereas differences have arisen in regard to the extent of the above-mentioned re-

nunciation, the Government of the United States and Her Majesty the Queen of Great Britain, being equally desirous of avoiding further misunderstanding, have agreed to appoint, and do hereby authorize the appointment of a mixed commission for the following purposes, namely:

1. To agree upon and define by a series of lines the limits which shall separate the exclusive from the common right of fishing on the coasts and in the seas adjacent of the British North American colonies, in conformity with the first article of the convention of 1818; the said lines to be regularly numbered, duly described, and also clearly marked on charts prepared in duplicate for the purpose.

2. To agree upon and establish such regulations as may be necessary and proper to secure to the fishermen of the United States the privilege of entering bays and harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and to agree upon and establish such restrictions as may be necessary to prevent the abuse of the privilege reserved by said convention to the fishermen of the United States.

3. To agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial and judgment with as little expense as possible, for the violators of rights and the transgressors of the limits and restrictions which may be hereby adopted.

Provided, however, That the limits, restrictions, and regulations which may be agreed upon by the said commission shall not be final, nor have any effect, until so jointly confirmed and declared by the United States and Her Majesty the Queen of Great Britain, either by treaty or by laws, mutually acknowledged and accepted by the President of the United States, by and with the consent of the Senate, and by Her Majesty the Queen of Great Britain.

Pending a definitive arrangement on the subject, the United States Government engages to give all proper orders to officers in its employment, and Her Britannic Majesty's Government engages to instruct the proper colonial or other British officers to abstain from hostile acts against British and United States fishermen respectively.

(Foreign Relations, 1866, vol. 1, p. 98.)

[Inclosure 5 in No. 459.—Translation.]

Convention between Her Britannic Majesty, the German Emperor, King of Prussia, the King of the Belgians, the King of Denmark, the President of the French Republic, and the King of the Netherlands, for regulating the police of the North Sea fisheries.

(Signed at The Hague, May 6, 1882.)

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland; His Majesty the German Emperor, King of Prussia; His Majesty the King of the Belgians; His Majesty the King of Denmark; the President of the French Republic; and His Majesty the King of the Netherlands, having recognized the necessity of regulating the police of the fisheries in the North Sea, outside territorial waters, have resolved to conclude for this purpose a convention, and have named their plenipotentiaries as follows:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the honorable William Stuart, companion of the Most Honorable Order of the Bath, etc., her envoy extraordinary and minister plenipotentiary at The Hague; Charles Malcolm Kennedy, esq., companion of the Most Honorable Order of the Bath, etc., head of the commercial department of the foreign office; and Charles Cecil Trevor, esquire, barrister at law, assistant secretary to the Board of Trade, etc.;

His Majesty the German Emperor, King of Prussia, Veit Richard von Schmidthals, knight of the Order of the Red Eagle of the third class, and of the Order of St. John, etc., councillor of legation, his chargé d'affaires at The Hague; and Peter Christian Kiuch Donner, knight of the Order of the Red Eagle of the fourth class with the sword, and of the crown of the fourth class, etc., his councillor of state, captain in the navy, on the reserve;

His Majesty the King of the Belgians, the Baron d'Anethan, commander of the Order of Leopold, etc., his envoy extraordinary and minister plenipotentiary at The Hague; and M. Léopold Orban, commander of the Order of Leopold, etc., his envoy extraordinary and minister plenipotentiary, director-general of the political department in the ministry of foreign affairs;

His Majesty the King of Denmark, Carl Adolph Bruun, knight of the Order of the Danebrog, etc., captain in the navy;

The President of the French Republic, the Count Lefebvre de Béhaine, commander of the national order of the Legion of Honor, etc., envoy extraordinary and minister

plenipotentiary of the French Republic at The Hague; and M. Gustave Émile Mancel, officer of the national order of the Legion of Honor, etc., commissary of marine; His Majesty the King of the Netherlands, the Jonkheer Willem Frederik Rochussen, commander of the Order of the Lion of the Netherlands, etc., his minister of foreign affairs, and Eduard Nicolaas Rahusen, knight of the Order of the Lion of the Netherlands, etc., president of the committee for sea fisheries:

Who, after having communicated the one to the other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

The provisions of the present convention, the object of which is to regulate the police of the fisheries in the North Sea, outside territorial waters, shall apply to the subjects of the high contracting parties.

ARTICLE II.

The fishermen of each country shall enjoy the exclusive right of fishery within the distance of 3 miles from low-water mark along the whole extent of the coasts of their respective countries, as well as of the dependent islands and banks.

As regards bays, the distance of 3 miles shall be measured from a straight line drawn across the bay in the part nearest the entrance, at the first point where the width does not exceed 10 miles.

The present article shall not in any way prejudice the freedom of navigation and anchorage in territorial waters accorded to fishing boats, provided they conform to the special police regulations enacted by the powers to whom the shore belongs.

ARTICLE III.

The miles mentioned in the preceding article are geographical miles, whereof 60 make a degree of latitude.

ARTICLE IV.

For the purpose of applying the provisions of the present convention, the limits of the North Sea shall be fixed as follows:

1. On the north by the parallel of the 61st degree of latitude.

2. On the east and south:

(1) By the coasts of Norway, between the parallel of the 61st degree of latitude and Lindesnaes light-house (Norway);

(2) By a straight line drawn from Lindesnaes light-house (Norway) to Hanstholm light-house (Denmark);

(3) By the coasts of Denmark, Germany, the Netherlands, Belgium, and France, as far as Griz Nez light-house.

3. On the west:

(1) By a straight line drawn from Griz Nez light-house (France) to the easternmost light-house at South Foreland (England);

(2) By the eastern coasts of England and Scotland;

(3) By a straight line joining Duncanaby Head (Scotland) and the southern point of South Ronaldshay (Orkney Islands);

(4) By the eastern coasts of the Orkney Islands;

(5) By a straight line joining North Ronaldshay light-house (Orkney Islands) and Sumburgh Head light-house (Shetland Islands);

(6) By the eastern coasts of the Shetland Islands;

(7) By the meridian of North Unst light-house (Shetland Islands) as far as the parallel of the 61st degree of latitude.

ARTICLE V.

The fishing boats of the high contracting parties shall be registered in accordance with the administrative regulations of each country. For each port there shall be a consecutive series of numbers, preceded by one or more initial letters, which shall be specified by the superior competent authority.

Each Government shall draw up a list showing these initial letters.

This list, together with all modifications which may subsequently be made in it, shall be notified to the other contracting powers.

ARTICLE VI.

Fishing boats shall bear the initial letter or letters of the port to which they belong, and the registry number in the series of numbers for that port.

ARTICLE VII.

The name of each fishing boat, and that of the port to which she belongs, shall be painted in white oil color on a black ground on the stern of the boat, in letters which shall be at least 8 centimeters in height and 12 millimeters in breadth.

ARTICLE VIII.

The letter or letters and numbers shall be placed on each bow of the boat, 8 or 10 centimeters below the gunwale, and so as to be clearly visible. They shall be painted in white oil color on a black ground.

The distance above mentioned shall not, however, be obligatory for boats of small burden, which may not have sufficient space below the gunwale.

For boats of 15 tons burden and upwards the dimensions of the letters and numbers shall be 45 centimeters in height and 6 centimeters in breadth.

For boats of less than 15 tons burden the dimensions shall be 25 centimeters in height and 4 centimeters in breadth.

The same letter or letters and numbers shall also be painted on each side of the mainsail of the boat, immediately above the close reef, in black color on white or tanned sails, and in white oil color on black sails.

The letter or letters and numbers on the sails shall be one-third larger in every way than those placed on the bows of the boat.

ARTICLE IX.

Fishing boats may not have, either on their outside or on their sails, any names, letters, or numbers other than those prescribed by Articles VI, VII, and VIII of the present convention.

ARTICLE X.

The names, letters, and numbers placed on the boats and on their sails shall not be effaced, altered, made illegible, covered, or concealed in any manner whatsoever.

ARTICLE XI.

All the small boats, buoys, principal floats, trawls, grapnels, anchors, and generally all fishing implements, shall be marked with the letter or letters and numbers of the boats to which they belong.

These letters and numbers shall be large enough to be easily distinguished. The owner of the nets or other fishing implements may further distinguish them by any private marks they think proper.

ARTICLE XII.

The master of each boat must have with him an official document, issued by the proper authority in his own country, for the purpose of enabling him to establish the nationality of the boat.

This document must always give the letter or letters and number of the boat, as well as her description and the name or names of the owner or the name of the firm or association to which she belongs.

ARTICLE XIII.

The nationality of a boat must not be concealed in any manner whatsoever.

ARTICLE XIV.

No fishing boat shall anchor, between sunset and sunrise, on grounds where drift-net fishing is actually going on.

This prohibition shall not, however, apply to anchorings which may take place in consequence of accidents or any other compulsory circumstances.

ARTICLE XV.

Boats arrived on the fishing grounds shall not either place themselves or shoot their nets in such a way as to injure each other, or as to interfere with fishermen who have already commenced their operations.

ARTICLE XVI.

Whenever, with a view of drift-net fishing, decked boats and undecked boats commence shooting their nets at the same time, the undecked boats shall shoot their nets to windward of the decked boats.

The decked boats, on their part, shall shoot their nets to leeward of the undecked boats.

As a rule, if decked boats shoot their nets to windward of undecked boats which have begun fishing, or if undecked boats shoot their nets to leeward of decked boats which have begun fishing, the responsibility as regards any damages to nets which may result shall rest with the boats which last began fishing, unless they can prove that they were under stress of compulsory circumstances, or that the damage was not caused by their fault.

ARTICLE XVII.

No net or any other fishing engine shall be set or anchored on grounds where drift-net fishing is actually going on.

ARTICLE XVIII.

No fisherman shall make fast or hold on his boat to the nets, buoys, floats, or any other part of the fishing tackle of another fisherman.

ARTICLE XIX.

When trawl fishermen are in sight of drift-net or of long-line fishermen, they shall take all necessary steps in order to avoid doing injury to the latter. Where damage is caused, the responsibility shall lie on the trawlers, unless they can prove that they were under stress of compulsory circumstances, or that the loss sustained did not result from their fault.

ARTICLE XX.

When nets, belonging to different fishermen get foul of each other, they shall not be cut without the consent of both parties.

All responsibility shall cease, if the impossibility of disengaging the nets by any other means is proved.

ARTICLE XXI.

When a boat fishing with long lines entangles her lines in those of another boat the person who hauls up the lines shall not cut them, except under stress of compulsory circumstances, in which case any line which may be cut shall be immediately joined together again.

ARTICLE XXII.

Except in cases of salvage, and the cases to which the two preceding articles relate, no fisherman shall, under any pretext whatever, cut, hook, or lift up nets, lines, or other gear not belonging to him.

ARTICLE XXIII.

The use of any instrument or engine which serves only to cut or destroy nets is forbidden.

The presence of any such engine on board a boat is also forbidden.

The high contracting parties engage to take the necessary measures for preventing the embarkation of such engines on board fishing boats.

ARTICLE XXIV.

Fishing boats shall conform to the general rules respecting lights which have been, or may be, adopted by mutual arrangement between the high contracting parties with the view of preventing collisions at sea.

ARTICLE XXV.

All fishing boats, all their small boats, all rigging gear or other appurtenances of fishing boats, all nets, lines, buoys, floats, or other fishing implements whatsoever

found or picked up at sea, whether marked or unmarked, shall, as soon as possible, be delivered to the competent authority of the first port to which the salvaging boat returns or puts in.

Such authority shall inform the consul or consular agent of the country to which the boat of the salvor belongs, and of the nation of the owners of the articles found. They [the same authority] shall restore the articles to the owners thereof or to their representatives, as soon as such articles are claimed and the interests of the salvors have been properly guaranteed.

The administrative or judicial authorities, according as the laws of the different countries may provide, shall fix the amount which the owners shall pay to the salvors.

It is, however, agreed that this provision shall not in any way prejudice such conventions respecting this matter as are already in force, and that the high contracting parties reserve the right of regulating, by special arrangements between themselves, the amount of salvage at a fixed rate per net salvaged.

Fishing implements of any kind found unmarked shall be treated as wreck.

ARTICLE XXVI.

The superintendence of the fisheries shall be exercised by vessels belonging to the national navies of the high contracting parties. In the case of Belgium, such vessels may be vessels belonging to the State, commanded by captains who hold commissions.

ARTICLE XXVII.

The execution of the regulations respecting the document establishing nationality, the marking and numbering of boats, etc., and of fishing implements, as well as the presence on board of instruments which are forbidden (Articles VI, VII, VIII, IX, X, XI, XII, XIII, and XXIII, section 2), is placed under the exclusive superintendence of cruisers of the nation of each fishing boat.

Nevertheless the commanders of cruisers shall acquaint each other with any infractions of the above-mentioned regulations committed by the fishermen of another nation.

ARTICLE XXVIII.

The cruisers of all the high contracting parties shall be competent to authenticate all infractions of the regulations prescribed by the present convention, other than those referred to in Article XXVII, and all offenses relating to fishing operations, whichever may be the nation to which the fishermen guilty of such infractions may belong.

ARTICLE XXIX.

When the commanders of cruisers have reason to believe that an infraction of the provisions of the present convention has been committed, they may require the master of the boat inculpated to exhibit the official document establishing her nationality. The fact of such document having been exhibited shall then be indorsed upon it immediately.

The commanders of cruisers shall not pursue further their visit or search on board a fishing boat which is not of their own nationality, unless it should be necessary for the purpose of obtaining proof of an offense or of a contravention of regulations respecting the police of the fisheries.

ARTICLE XXX.

The commanders of the cruisers of the signatory powers shall exercise their judgment as to the gravity of facts brought to their knowledge, and of which they are empowered to take cognizance, and shall verify the damage, from whatever cause arising, which may be sustained by fishing boats of the nationalities of the high contracting parties.

They shall draw up, if there is occasion for it, a formal statement of the verification of the facts as elicited both from the declarations of the parties interested and from the testimony of those present.

The commander of the cruiser may, if the case appears to him sufficiently serious to justify the step, take the offending boat into a port of the nation to which the fisherman belongs. He may even take on board the cruiser a part of the crew of the fishing boat in order to hand them over to the authorities of her nation.

ARTICLE XXXI.

The formal statement referred to in the preceding article shall be drawn up in the language of the commander of the cruiser, and according to the forms in use in his country.

The accused and the witnesses shall be entitled to add, or to have added, to such statement, in their own language, any observations or evidence which they may think suitable. Such declarations must be duly signed.

ARTICLE XXXII.

Resistance to the directions of commanders of cruisers charged with the police of the fisheries, or of those who act under their orders, shall, without taking into account the nationality of the cruiser, be considered as resistance to the authority of the nation of the fishing boat.

ARTICLE XXXIII.

When the act alleged is not of a serious character, but has nevertheless caused damage to any fisherman, the commanders of cruisers shall be at liberty, should the parties concerned agree to it, to arbitrate at sea between them, and to fix the compensation to be paid.

Where one of the parties is not in a position to settle the matter at once, the commanders shall cause the parties concerned to sign in duplicate a formal document specifying the compensation to be paid.

One copy of this document shall remain on board the cruiser, and the other shall be handed to the master of the boat to which the compensation is due, in order that he may, if necessary, be able to make use of it before the courts of the country to which the debtor belongs.

Where, on the contrary, the parties do not consent to arbitration, the commanders shall act in accordance with the provisions of Article XXX.

ARTICLE XXXIV.

The prosecutions for offenses against, or contraventions of, the present convention shall be instituted by, or in the name of, the state.

ARTICLE XXXV.

The high contracting parties engage to propose to their respective legislatures the necessary measures for insuring the execution of the present convention, and particularly for the punishment, by either fine or imprisonment, or by both, of persons who may contravene the provisions of Articles VI to XXIII inclusive.

ARTICLE XXXVI.

In all cases of assault committed, or of willful damage or loss inflicted, by fishermen of one of the contracting countries upon fishermen of another nationality, the courts of the country to which the boats of the offenders belong shall be empowered to try them.

The same rule shall apply with regard to offenses against, and contraventions of, the present convention.

ARTICLE XXXVII.

The proceedings and trial in cases of infraction of the provisions of the present convention shall take place as summarily as the laws and regulations in force will permit.

ARTICLE XXXVIII.

The present convention shall be ratified. The ratifications shall be exchanged at the Hague as soon as possible.

ARTICLE XXXIX.

The present convention shall be brought into force from and after a day to be agreed upon by the high contracting parties.

The convention shall continue in operation for five years from the above day; and, unless one of the high contracting parties shall, twelve months before the expiration of the said period of five years, give notice of intention to terminate its operation, shall continue in force one year longer, and so on from year to year. If, however, one of the signatory powers should give notice to terminate the convention, the same shall be maintained between the other contracting parties, unless they give a similar notice.

ADDITIONAL ARTICLE.

The Government of His Majesty the King of Sweden and Norway may adhere to the present convention, for Sweden and for Norway, either jointly or separately.

This adhesion shall be notified to the Netherlands Government, and by it to the other signatory powers.

In witness whereof the plenipotentiaries have signed the present convention, and have affixed thereto their seals.

Done at the Hague, in six copies, the 6th May, 1882.

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W. S. STUART.
C. M. KENNEDY.
C. CECIL TREVOR.
V. SCHMIDTHALS.
CHR. DONNER.
BON. A. D'ANETHAN.
LEOPOLD ORBAN.
C. BRUN.
C^{te}. LEFÉBVRE DE BÉHAINE.
EM. MANCIEL.
ROCHUSSEN.
E. N. RAHUSEN.

[Translation.]

In conformity with the agreement arrived at between their respective Governments, the undersigned envoys extraordinary and ministers plenipotentiary of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, His Majesty the German Emperor, King of Prussia, His Majesty the King of the Belgians, and the French Republic, met together this day at the office of the minister for foreign affairs at the Hague, in order to proceed with the undersigned minister for foreign affairs of His Majesty the King of the Netherlands, to the examination and deposit of the instruments of ratification of the convention signed at the Hague the 6th May, 1882, having for its object the regulation of the police of the fisheries in the North Sea, outside territorial waters.

The instruments of ratification having been produced, and the minister for foreign affairs of His Majesty the King of the Netherlands having produced the instrument of ratification of His Majesty the King of Denmark, which the minister for foreign affairs at Copenhagen had forwarded to him in a note dated the 11th June, 1882, as well as the instrument of ratification signed by His Majesty the King of the Netherlands, and the said instruments having been examined and found in good and due form, the documents were delivered to the minister for foreign affairs of His Majesty the King of the Netherlands, in order that they might remain deposited in the archives of the department for foreign affairs at the Hague, such deposit being in place of an exchange of the said instruments.

The undersigned, envoys extraordinary and ministers plenipotentiary, duly authorized by their respective Governments, and the undersigned, minister for foreign affairs of His Majesty the King of the Netherlands, equally authorized by His Majesty the King of the Netherlands, and by the Government of His Majesty the King of Denmark, have, moreover, mutually agreed that the convention shall be put into operation two months after the date of the present protocol.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at the Hague, the 15th day of March, in the year of grace 1884, in six copies, of which one shall be delivered to each of the six Governments.

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[L. S.]

W. STUART.
VON ALVENSLEBEN.
BON. A. D'ANETHAN.
VAN DER DOES DE WILLEBOIS.
LOUIS LEGRAND.
VAN DER DOES DE WILLEBOIS.

[Translation.]

The undersigned, envoys extraordinary and ministers plenipotentiary of His Majesty the German Emperor, King of Prussia, His Majesty the King of the Belgians, the French Republic, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the undersigned, minister for foreign affairs of

His Majesty the King of the Netherlands, who is also authorized to represent the Government of the King of Denmark on this occasion, having met together at the office of the minister for foreign affairs at the Hague on the 15th March, 1884, for the purpose of depositing the instruments of ratification of the convention signed at the Hague the 31st May, 1882, having for its object the regulation of the police of the fisheries in the North Sea outside territorial waters, and in order to sign the protocol relative to said deposition, the envoy of France stated that, while adhering to the time agreed upon for putting the convention into operation, the Government of the Republic maintained the reserve contained in article 24 of the law of the 15th January, 1884, thus worded:

"The carrying into effect of the present law shall be provisionally suspended up to the time on which the other signatory powers of the convention of the 6th May, 1882, shall have promulgated the penalties stipulated in Article XXXV of the convention."

The other undersigned have stated to him that they take note of this declaration.

VON ALVENSLEBEN.

BARON D'ANETHAN.

(For the Government of Denmark.

VAN DER DOES DE WILLEBOIS.

LOUIS LEGRAND.

W. STUART.

VAN DER DOES DE WILLEBOIS.

No. 299.

Mr. Phelps to Mr. Bayard.

No. 393.]

LEGATION OF THE UNITED STATES,
London, December 3, 1886. (Received December 14.)

SIR: Referring to your several instructions on the subject of the Canadian fisheries, numbered, respectively, 452, 458, and 459, I have the honor to inform you that on the 27th November I addressed a note to Lord Iddesleigh, Her Majesty's secretary of state for foreign affairs, inclosing a copy of your instructions, No. 452, relative to the case of the *Marion Grimes*.

On the 30th November I had an interview with his lordship, in which the subject of the instruction above mentioned was discussed.

On the 2d December I addressed to him another note in pursuance of instruction No. 458, asking that the solicitors for the owners of the fishing vessel *David J. Adams* may be furnished, for use in the suit concerning that vessel now pending at Halifax, with copies of the original reports mentioned in that instruction, showing the charges upon which the seizure was originally made.

I have this day received from Lord Iddesleigh a note, dated November 30, in reply to mine addressed to him on the 11th of September last, on the subject of the same fisheries, a copy of which has heretofore been transmitted to you.

And I have now sent a note to Lord Iddesleigh acknowledging the receipt of his communication, and saying that I should at an early date submit to him some considerations in reply, and meanwhile inclosing to him, in pursuance of his request made at the interview of November 30, a copy of the "Proposal for settlement" transmitted to me in your No. 459, together with a copy of that instruction.

I have the honor to inclose herewith copies of my three notes above referred to, dated November 27, December 2, and December 3, and of Lord Iddesleigh's note of November 30.

I have, etc.,

E. J. PHELPS.

[Inclosure 1 in No. 393.]

Mr. Phelps to Lord Iddesleigh.

LEGATION OF THE UNITED STATES.

London, November 27, 1886.

MY LORD: I have the honor to transmit herewith a copy of an instruction, under date of November 6, 1886, received by me from the Secretary of State of the United States, relative to the case of the United States fishing vessel the *Marion Grimes*.

The subject is so fully presented in this document, a copy of which I am authorized by the Secretary to place in the hands of your lordship, that I can add nothing to what is therein set forth, except to request your lordship's early attention to the case, which appears to be a very flagrant violation of the rights secured to American fishermen under the treaty of 1818.

I have, etc.,

E. J. PHELPS.

[Inclosure 2 in No. 393.]

Mr. Phelps to Lord Iddesleigh.

LEGATION OF THE UNITED STATES,

London, December 2, 1886.

MY LORD: Referring to the conversation I had the honor to hold with your lordship on the 30th November, relative to the request of my Government that the owners of the *David J. Adams* may be furnished with a copy of the original reports, stating the charges on which that vessel was seized by the Canadian authorities, I desire now to place before you in writing the grounds upon which this request is preferred.

It will be in the recollection of your lordship, from the previous correspondence relative to the case of the *Adams*, that the vessel was first taken possession of for the alleged offense of having purchased a small quantity of bait within the port of Digby, in Nova Scotia, to be used in lawful fishing. That later on a further charge was made against the vessel of a violation of some custom-house regulation, which it is not claimed, so far as I can learn, was ever before insisted on in a similar case. I think I have made it clear in my note of the 2d of June last, addressed to Lord Rosebery, then foreign secretary, that no act of the English or of the Canadian Parliament existed at the time of this seizure which legally justified it on the ground of the purchase of bait, even if such an act would have been authorized by the treaty of 1818. And it is a natural and strong inference, as I have in that communication pointed out, that the charge of violation of custom-house regulations was an afterthought, brought forward in order to sustain proceedings commenced on a different charge and found untenable.

In the suit that is now going on in the admiralty court at Halifax, for the purpose of condemning the vessel, still further charges have been added. And the Government of Canada seek to avail themselves of a clause in the act of the Canadian Parliament of May 22, 1868, which is in these words: "In case a dispute arises as to whether any seizure has or has not been legally made or as to whether the person seizing was or was not authorized to seize under this act . . . the burden of proving the illegality of the seizure shall be on the owner or claimant."

I can not quote this provision without saying that it is, in my judgment, in violation of the principles of natural justice, as well as of those of the common law. That a man should be charged by police or executive officers with the commission of an offense and then be condemned upon trial unless he can prove himself to be innocent is a proposition that is incompatible with the fundamental ideas upon which the administration of justice proceeds. But it is sought in the present case to carry the proposition much further, and to hold that the party inculpated must not only prove himself innocent of the offense on which his vessel was seized, but also of all other charges upon which it might have been seized that may be afterward brought forward and set up at the trial.

Conceiving that if the clause I have quoted from the act of 1868 can have effect (if allowed any effect at all) only upon the charge on which the vessel was originally seized, and that seizure for one offense can not be regarded as *prima facie* evidence of guilt of another, the counsel for the owners of the vessel have applied to the prosecuting officers to be furnished with a copy of the reports made to the Government of Canada in connection with the seizure of the vessel, either by Captain Scott, the seizing officer, or by the collector of customs at Digby, in order that it might be known to the defendant and be shown on trial what the charges are on which the

seizure was grounded, and which the defendant is required to disprove. This most reasonable request has been refused by the prosecuting officers.

Under those circumstances I am instructed by my Government to request of Her Majesty's Government that the solicitors for the owners of the *David J. Adams* in the suit pending in Halifax may be furnished, for the purposes of the trial thereof, with copies of the reports above mentioned. And I beg to remind your lordship that there is no time to be lost in giving the proper direction if it is to be in season for the trial, which, as I am informed, is being pressed.

I have, etc.,

E. J. PHELPS.

[Inclosure 3 in No. 393.]

The Earl of Idlesleigh to Mr. Phelps.

FOREIGN OFFICE, November 30, 1886.

SIR: I have given my careful consideration to the contents of the note of the 11th September last, which you were good enough to address to me in reply to mine of the 1st of the same month, on the subject of the North American fisheries.

The question, as you are aware, has for some time past engaged the serious attention of Her Majesty's Government and the notes which have been addressed to you in relation to it, both by my predecessor and by myself, have amply evinced the earnest desire of Her Majesty's Government to arrive at some equitable settlement of the controversy. It is, therefore, with feelings of disappointment that they do not find in your note under reply any indication of a wish on the part of your Government to enter upon negotiations based on the principle of mutual concessions, but rather a suggestion that some *ad interim* construction of the terms of the existing treaty should, if possible, be reached, which might for the present remove the chance of disputes; in fact, that Her Majesty's Government, in order to allay the differences which have arisen, should temporarily abandon the exercise of the treaty rights which they claim and which they conceive to be indisputable. For Her Majesty's Government are unable to perceive any ambiguity in the terms of Article 1 of the convention of 1818, nor have they as yet been informed in what respects the construction placed upon that instrument by the Government of the United States differs from their own. They would, therefore, be glad to learn in the first place whether the Government of the United States contest that by Article 1 of the convention United States fishermen are prohibited from entering British North American bays or harbors on those parts of the coast referred to in the second part of the article in question for any purposes save those of shelter, repairing damages, purchasing wood, and obtaining water.

Before proceeding to make some observations upon the other points dealt with in your note, I have the honor to state that I do not propose in the present communication to refer to the cases of the schooners *Thomas F. Bayard* and *Mascot*, to which you allude.

The privileges manifestly secured to United States fishermen by the convention of 1818 in Newfoundland, Labrador, and the Magdalen Islands are not contested by Her Majesty's Government, who, whilst determined to uphold the rights of Her Majesty's North American subjects, as defined in the convention, are no less anxious and resolved to maintain in their full integrity the facilities for prosecuting the fishing industry on certain limited portions of the coast which are expressly granted to citizens of the United States. The communications on the subject of these two schooners, which I have requested Her Majesty's minister at Washington to address to Mr. Bayard, can not, I think, have failed to afford to your Government satisfactory assurances in this respect.

Reverting now to your note under reply, I beg to offer the following observations on its contents:

In the first place, you take exception to my predecessor having declined to discuss the case of the *David J. Adams*, on the ground that it was still *sub judice*, and you state that your Government are unable to accede to the proposition contained in my note of the 1st of September last, to the effect that "it is clearly right, according to practice and precedent, that such diplomatic action should be suspended pending the completion of the judicial inquiry."

In regard to this point, it is to be remembered that there are three questions calling for investigation in the case of the *David J. Adams*:

- (1) What were the acts committed which led to the seizure of the vessel?
- (2) Was her seizure for such acts warranted by any existing laws?
- (3) If so, are those laws in derogation of the treaty rights of the United States?

It is evident that the first two questions must be the subject of inquiry before the third can be profitably discussed, and that those two questions can only be satisfac-

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J. PHELPS.

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torily disposed of by a judicial inquiry. Far from claiming that the United States Government would be bound by the construction which British tribunals might place on the treaty, I stated in my note of the 1st September that if that decision should be adverse to the views of your Government it would not preclude further discussion between the two Governments and the adjustment of the question by diplomatic action.

I may further remark that the very proposition advanced in my note of the 1st of September last, and to which exception is taken in your reply, has on a previous occasion been distinctly asserted by the Government of the United States under precisely similar circumstances, that is to say, in 1870, in relation to the seizure of American fishing vessels in Canadian waters for alleged violation of the convention of 1818.

In a dispatch of the 29th of October, 1870, to Mr. W. A. Dart, United States consul-general at Montreal (which is printed at page 431 of the volume for that year of the Foreign Relations of the United States, and which formed part of the correspondence referred to by Mr. Bayard in his note to Sir L. West of the 20th of May last), Mr. Fish expressed himself as follows:

"It is the duty of the owners of the vessels to defend their interests before the courts at their own expense, and without special assistance from the Government at this stage of affairs. It is for those tribunals to construe the statutes under which they act. If the construction they adopt shall appear to be in contravention of our treaties with Great Britain, or to be (which can not be anticipated) plainly erroneous in a case admitting of no reasonable doubt, it will then become the duty of the Government—a duty which it will not be slow to discharge—to avail itself of all necessary means for obtaining redress."

Her Majesty's Government, therefore, still adhere to their view that any diplomatic discussion as to the legality of the seizure of the *David J. Adams* would be premature until the case has been judicially decided.

It is further stated in your note that "the absence of any statute authorizing proceedings or providing a penalty against American fishing vessels for purchasing bait or supplies in a Canadian port to be used in lawful fishing" affords "the most satisfactory evidence that up to the time of the present controversy no such construction has been given to the treaty by the British or by the colonial parliament as is now sought to be maintained."

Her Majesty's Government are quite unable to accede to this view, and I must express my regret that no reply has yet been received from your Government to the arguments on this and all the other points in controversy, which are contained in the able and elaborate report (as you courteously describe it) of the Canadian minister of marine and fisheries, of which my predecessor communicated to you a copy.

In that report reference is made to the argument of Mr. Bayard, drawn from the fact that the proposal of the British negotiators of the convention of 1818, to the effect that American fishing vessels should carry no merchandise, was rejected by the American negotiators; and it is shown that the above proposal had no application to American vessels resorting to the Canadian coasts, but only to those exercising the right of inshore fishing and of landing for the drying and curing of fish on parts of the coasts of Newfoundland and Labrador.

The report, on the other hand, shows that the United States negotiators proposed that the right of "procuring bait" should be added to the enumeration of the four objects for which the United States fishing vessels might be allowed to enter Canadian waters; and that such proposal was rejected by the British negotiators, thus showing that there could be no doubt in the minds of either party at the time that the "procuring of bait" was prohibited by the terms of the article. The report, moreover, recalls the important fact that the United States Government admitted, in the case submitted by them before the Halifax Commission in 1877, that neither the convention of 1818 nor the treaty of Washington conferred any right or privilege of trading on American fishermen; that the "various incidental and reciprocal advantages of the treaty, such as the privileges of traffic, purchasing bait and other supplies, are not the subject of compensation, because the treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance; and who can at any time be deprived of them."

This view was confirmed by the ruling of the commissioners. Whilst I have felt myself bound to place the preceding observations before you in reply to the arguments contained in your note, I beg leave to say that Her Majesty's Government would willingly have left such points of technical detail and construction for the consideration of a commission properly constituted to examine them, as well as to suggest a means for either modifying their application or substituting for them some new arrangement of a mutually satisfactory nature.

I gather, however, from your note that, in the opinion of your Government, although a revision of treaty stipulations on the basis of mutual concessions was desired by the United States before the present disputes arose, yet the present time is inopportune

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for various reasons, among which you mention the irritation created in the United States by the belief that the action of the Canadian Government has had for its object to force a new treaty on your Government.

Her Majesty's Government learn with much regret that such an impression should prevail, for every effort has been made by the Canadian Government to promote a friendly negotiation and to obviate the differences which have now arisen. Indeed, it is hardly necessary to remind you that, for six months following the denunciation by your Government of the fishery articles of the treaty of Washington, the north American fisheries were thrown open to citizens of the United States without any equivalent, in the expectation that the American Government would show their willingness to treat the question in a similar spirit of amity and good will.

Her Majesty's Government can not but express a hope that the whole correspondence may be laid immediately before Congress, as they believe that its perusal would influence public opinion in the United States in favor of negotiating, before the commencement of the next fishing season, an arrangement based on mutual concessions, and which would therefore (to use the language of your note) "consist with the dignity, the interests, and the friendly relations of the two countries."

Her Majesty's Government can not conceive that negotiations commenced with such an object and in such a spirit could fail to be successful; and they trust, therefore, that your Government will endeavor to obtain from Congress, which is about to assemble, the necessary powers to enable them to make to Her Majesty's Government some definite proposals for the negotiation of a mutually advantageous arrangement.

I have, etc.,

IDDESLEIGH.

[Inclosure 4 in No. 393.]

Mr. Phelps to Lord Iddeleigh.

LEGATION OF THE UNITED STATES,
London, December 3, 1886.

MY LORD: I have the honor to acknowledge the receipt of your note of the 30th November, on the subject of the Canadian fisheries, and to say that I shall at an early day submit to your lordship some considerations in reply.

Meanwhile, I have the honor to transmit, in pursuance of the desire expressed by your lordship in conversation on November 30, a copy of an outline for a proposed *ad interim* arrangement between the two governments on this subject which has been proposed by the Secretary of State of the United States.*

And I likewise transmit, in connection with it, a copy of the instruction from the Secretary of State which accompanied it,† and which I am authorized to submit to your lordship.

I have, etc.,

E. J. PHELPS.

No. 300.

Mr. Bayard to Mr. Phelps.

No. 466.]

DEPARTMENT OF STATE,
Washington, December 7, 1886.

SIR: I inclose herewith, for your information, a copy of my note of the 1st instant to Sir Lionel West, Her Britannic Majesty's minister at this capital, concerning the treatment by the Canadian authorities of the American fishing schooner *Molly Adams*, of Gloucester, Mass.

I am, etc.,

T. F. BAYARD.

* Printed *ante.*, p. 427.)

† Printed *ante.*, p. 424.)

‡ Printed page 428, *Foreign Relations*, 1886,

No. 301.

Mr. Bayard to Mr. Phelps.

No. 470.]

DEPARTMENT OF STATE,
Washington, December 8, 1886.

SIR: With reference to instruction No. 466, of the 7th instant, concerning the case of the American fishing schooner *Molly Adams*, I now transmit to you herewith, for your further information, a copy of the letter* of Mr. Solomon Jacobs, of the 12th ultimo, in which the matter was brought to the attention of the Department.

I am, etc.,

T. F. BAYARD.

No. 302.

Mr. Bayard to Mr. Phelps.

No. 472.]

DEPARTMENT OF STATE,
Washington, December 8, 1886.

SIR: My attention has just been drawn to a notice published by the British Government in London in relation to the exercise of fishing rights in common with France.

It occurs to me that it may be pertinent to the consideration of the questions discussed in the *modus vivendi*, in relation to the British North American fisheries, lately forwarded to you by this Department.

The publication no doubt can readily be procured in London. It is issued in pamphlet form.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 472.]

Further notice to British fishermen with respect to the exclusive fishery limits of France.

The French Government have intimated to Her Majesty's Government that the recent detention of English oyster smacks which entered Havre to pass Sunday there in fine weather, was effected by the maritime authority at that port for an infraction of Articles LXXXV and LXXXVI of the International Fishery Regulations of May 24, 1843, and that the minister of marine in Paris, on learning the circumstances, directed that the smacks should be immediately released, in consequence of the toleration which has for a long time existed in the United Kingdom and France as regards not enforcing the strict observance of these articles.

The French Government have given special instructions for preventing a recurrence of like circumstances, without a preliminary reference on the part of the authority at the port to the ministry of marine.

The French Government have further intimated that in the event of their finding that the maintenance of the existing toleration gives rise to inconvenience, notice will be given to Her Majesty's Government, so as to allow of the latter issuing timely warning to British fishermen. (The Board of Trade Journal, vol. 1, No. 4, p. 146, 1886, London.)

No. 303.

Mr. Bayard to Mr. Phelps.

No. 474.]

DEPARTMENT OF STATE,

Washington, December 13, 1886.

SIR: On the 8th instant I received from the British minister at this capital a communication dated the 7th of this month, accompanied by a copy of the minutes of the honorable privy council of Canada, in relation to the action of Captain Quigley, of the Canadian cutter *Terror*, in lowering the flag of the United States fishing schooner *Marion Grimes* whilst under detention by the customs authorities in Shelburne Harbor, on the 11th of October last.

As this occurrence had been made the subject of an instruction to you by me, on the 6th ultimo, whereby you were requested to bring the incident to the attention of Her Majesty's Government, I hasten to inform you of the voluntary action of the Canadian Government and of their expression of regret for the action of the officer referred to.

The copy of the correspondence and proceedings of the Canadian authorities discloses the dates of their action in the premises, of which, however, my earliest information was on the 8th instant, in the note* of Sir Lionel West, a copy of which is herewith sent to you.

I am, etc.,

T. F. BAYARD.

No. 304.

Mr. Phelps to Mr. Bayard.

No. 416.]

LEGATION OF THE UNITED STATES,

London, January 13, 1887. (Received January 24.)

SIR: Referring to your instructions numbered 458 of November 12, and also to my dispatch numbered 393 of December 3, I have the honor to inclose herewith the copy of a note which I have just received from the Earl of Iddesleigh in reply to mine of December 2 to his lordship, asking that the owners of the *David J. Adams* be furnished with copies of the original reports stating the charges on which that vessel was seized by the Canadian authorities. A copy of the latter note formed inclosure to my dispatch No. 393 aforesaid.

You will observe that Her Majesty's Government have not seen fit to interfere in the matter.

I have, etc.,

E. J. PHELPS.

[Inclosure in No. 416.]

Lord Iddesleigh to Mr. Phelps.

FOREIGN OFFICE, January 11, 1887.

SIR: Her Majesty's Government have considered the request contained in your note of the 2d ultimo, to the effect that the owners of the *David J. Adams* may be furnished with copies of the original reports stating the charges on which that vessel was seized by the Canadian authorities; and I have now the honor to state to you

that if the owners of this vessel are legally entitled to be furnished with those reports they can obtain them by the process of the courts; and there seems no ground for the interference of Her Majesty's Government with the ordinary course of justice.

As regards the means of obtaining information for the purposes of the defense, I would point out that in the report of the Canadian minister of marine and fishery, of which a copy was communicated to you on the 23d July last, it is stated that from a date immediately after the seizure "there was not the slightest difficulty in the United States consul-general, and those interested in the vessel, obtaining the fullest information," and that "apart from the general knowledge of the offenses which it was claimed the master had committed, and which was furnished at the time of the seizure, the most technical and precise details were readily obtainable at the registry of the court, and from the solicitors of the Crown."

With respect to the statement in your note that a clause in the Canadian act of May 22, 1868, to the effect that, "In case a dispute arises as to whether any seizure has or has not been legally made, or as to whether the person seizing was or was not authorized to seize under this act, the burden of proving the illegality of the seizure shall be on the owner or claimant," is in violation of the principles of national justice, as well as of those of the common law, I have to observe that the statute referred to is cap. 61 of 1868, which provides for the issue of licenses to foreign fishing vessels, and for the forfeiture of such vessels fishing without a license; and that the provisions of Article 10, to which you take exception, are commonly found in laws against smuggling, and are based on the rule of law that a man who pleads that he holds a license or other similar document shall be put to the proof of his plea and required to produce the document.

I beg leave to add that the provisions of that statute, so far as they relate to the issue of licenses, has been in operation since the year 1870.

I have, etc.,

IDDESLEIGH.

No. 305.

Mr. Bayard to Mr. Phelps.

[Extract.]

No. 520.]

DEPARTMENT OF STATE,

Washington, January 27, 1887.

SIR: Your dispatch No. 416, of the 12th instant, transmitting a copy of the note, dated the 11th, received by you from the late Lord Iddesleigh, in response to your note of December 2, 1886, requesting copies of the papers in the case of the *David J. Adams*, has been received.

The concluding part of Lord Iddesleigh's note seems to demand attention, inasmuch as the argument employed to justify the provisions of Article 10 of the Canadian Statutes, cap. 61 of 1868, which throw on the claimant the burden of proving the illegality of a seizure, appears to rest upon the continued operation of Article 1 of that statute, relative to the issue of licenses to foreign fishing vessels. The note in question states "that the provisions of that statute, so far as they relate to the issue of licenses, has [have?] been in operation since the year 1870."

It appears from the correspondence exchanged in 1870 between this Department and Her Majesty's minister in Washington (see the volume of Foreign Relations, 1870, pp. 407-411) that on the 8th of January, 1870, an order in council of the Canadian Government decreed "that the system of granting fishing license to foreign vessels under the act 31 Vic., cap. 61, be discontinued, and that henceforth all foreign fishermen be prevented from fishing in the waters of Canada."

During the continuance of the fishery articles of the treaty of Washington Canadian fishing licenses were not required for fishermen of the United States, and since the termination of those articles, July 1, 1855,

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this Department has not been advised of the resumption of the licensing system under the statute aforesaid.

The faulty construction of the last paragraph of Lord Iddesleigh's note, as transmitted with your No. 416, suggests the possibility of a clerical error in the preparation or transcription of that note, and that it may have been intended to state that the licensing provisions of the statute, cap. 61, 1868, "have not been in operation since 1870," but in that case it is not easy to apply the argument advanced.

I am, etc.,

T. F. BAYARD.

No. 306.

Mr. Phelps to Mr. Bayard.

[Extract.]

No. 423.]

LEGATION OF THE UNITED STATES,
London, January 27, 1887. (Received February 7.)

SIR: I have the honor to transmit herewith a copy of a note addressed to me by Lord Iddesleigh, secretary of state for foreign affairs, dated December 16, 1886.

Also a copy of a note addressed to me by Sir Julian Pauncefoot, acting secretary of foreign affairs during a vacancy in that office, dated January 14, 1887.

Also a copy of a note addressed by me to Lord Salisbury, secretary of state for foreign affairs, dated January 26, 1887.

All on the subject of the Canadian fisheries.

I am to have an interview with Lord Salisbury by appointment tomorrow in reference to the same subject.

I have, etc.,

E. J. PHELPS.

[Inclosure 1 in No. 423.]

Lord Iddesleigh to Mr. Phelps.

FOREIGN OFFICE, December 16, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo relative to the case of the *Marion Grimes*, stated to have been fined and detained at Shelburne, Nova Scotia, in October last.

As other cases besides that of the *Marion Grimes* are alluded to in the documents forwarded in your note, it will be desirable to take each case separately, and inform you shortly of the steps which Her Majesty's Government have taken in regard to them.

In respect to the case of the *Marion Grimes*, I have already received, through Her Majesty's secretary of state for the colonies, a copy of a dispatch from the Dominion Government, in which they express their regret at the action taken by Captain Quigley in hauling down the United States flag. I have transmitted a copy of this dispatch to Her Majesty's minister at Washington, with instructions to communicate it to Mr. Bayard, and I beg leave to now inclose a copy of it for your information.

Her Majesty's Government cannot doubt that, as respects the incident of the flag, the apology thus spontaneously tendered by the Canadian Government will be accepted by the United States Government in the friendly and conciliatory disposition in which it is offered, whilst as regards the other statements concerning Captain Quigley's conduct, Her Majesty's Government do not at present feel themselves in a position to express any opinion.

The Dominion Government have been requested to furnish a full report on the various circumstances alleged, and when this is received I shall have the honor to address a further communication to you upon the subject.

S. Ex. 113—3

As concerns the case of the *Julia Ellen* and *Shiloh*, it will probably suffice to communicate to you the inclosed copies of reports from the Canadian Government relative to these two vessels. These reports have already been sent to Her Majesty's minister at Washington for communication to Mr. Bayard.

The protest made by the United States Government in the case of the *Everett Steele* was not received in this country until the 1st ultimo; and although the Canadian Government have been requested by telegraph to furnish a report upon the circumstances alleged, sufficient time has not yet elapsed to enable Her Majesty's Government to be in possession of the facts as reported by the Dominion Government.

Her Majesty's Government greatly regret that incidents of the description alluded to should occur, and they can only renew the assurance conveyed to you in my note of the 30th ultimo, that whilst firmly resolved to uphold the undoubted treaty rights of Her Majesty's North American subjects in regard to the fisheries, they will also equally maintain the undoubted rights of United States fishermen to obtain shelter in Canadian ports, under such restrictions as may be necessary to prevent their abusing the privileges reserved to them by treaty.

I notice that in Mr. Bayard's note to you of the 6th ultimo, concerning the case of the *Marion Grimes*, and also in his note to Sir L. West of the 19th October last, relative to the case of the *Everett Steele*, an old discussion is revived which Her Majesty's Government had hoped was finally disposed of by the correspondence which took place on the subject in 1815 and 1816.

I allude to the argument that a right to the common enjoyment of the fisheries by Great Britain and the United States, after the separation of the latter from the mother country, was recognized by the treaty of 1783, although the exercise of that right was made subject to certain restrictions. I refer to this point merely to observe that the views of Her Majesty's Government in relation to it have not been modified in any way since the date of Lord Bathurst's note of the 30th of October, 1815, to Mr. John Quincy Adams.

I have, etc.

IDDESLEIGH.

[Inclosure 2 in No. 423.]

Sir J. Pouncefote to Mr. Phelps.

FOREIGN OFFICE, January 14, 1887.

SIR: With reference to my predecessor's note of the 30th of November last, I have the honor to transmit to you a copy of a report from the Canadian minister of justice upon the seizure of the American fishing vessel *David J. Adams*.

I have forwarded a copy of this report to Her Majesty's minister at Washington for communication to the United States Government.

I have the honor, etc.,

J. POUNCEFOTE,
(For the Secretary of State.)

[Inclosure 3 in No. 423.]

Mr. Phelps to the Marquis of Salisbury.

LEGATION OF THE UNITED STATES,
London, January 26, 1887.

MY LORD: Various circumstances have rendered inconvenient an earlier reply to Lord Idlesleigh's note of November 12, on the subject of the North American fisheries, and the termination of the fishing season has postponed the more immediate necessity of the discussion; but it seems now very important that before the commencement of another season a distinct understanding should be reached between the United States Government and that of Her Majesty relative to the course to be pursued by the Canadian authorities towards American vessels.

It is not without surprise that I have read Lord Idlesleigh's remark, in the note above mentioned, referring to the treaty of 1818, that Her Majesty's Government "have not as yet been informed in what respect the construction placed upon that instrument by the Government of the United States differs from their own."

Had his lordship perused more attentively my note to his predecessor in office, Lord Rosebery, under date of June 2, 1886, to which reference was made in my note to Lord Idlesleigh of September 11, 1886, I think he could not have failed to apprehend distinctly the construction of that treaty for which the United States Government contends and the reasons and arguments upon which it is founded.

I have again respectfully to refer your lordship to my note to Lord Rosebery of June 2, 1886, for a very full and, I hope, clear exposition of the ground taken by the United States Government on that point. It is unnecessary to repeat it, and I am unable to add to it.

In reply to the observations in my note to Lord Idlesleigh of September 11, 1886, on the point whether such discussion should be suspended in these cases until the result of the judicial proceedings in respect to them should be made known, a proposition to which, as I stated in that note, the United States Government is unable to accede, his lordship cites in support of it some language of Mr. Fish, when Secretary of State of the United States, addressed to the United States consul-general at Montreal in May, 1870. From the view then expressed by Mr. Fish the United States Government has neither disposition nor occasion to dissent. But it can not regard it as in any way applicable to the present case.

It is true beyond question that when a private vessel is seized for an alleged infraction of the laws of the country in which the seizure takes place, and the fact of the infraction, or the exact legal construction of the local statute claimed to be transgressed, is in dispute, and is in process of determination by the proper tribunal, the Government to which the vessel belongs will not usually interfere in advance of such determination and before acquiring the information on which it depends. And especially when it is not yet informed whether the conduct of the officer making the seizure will not be repudiated by the Government under which he acts, so that interference will be unnecessary. This is all, in effect, that was said by Mr. Fish on that occasion. In language immediately following that quoted by Lord Idlesleigh he remarks as follows (italics being mine):

"The present embarrassment is that while we have reports of several seizures upon grounds as stated by the interested parties, which seem to be in contravention of international law and special treaties relating to the fisheries, these alleged causes of seizure are regarded as pretensions of over zealous officers of the British navy and the colonial vessels which will, as we hope and are bound in courtesy to expect, be repudiated by the courts, before which our vessels are to be brought for adjudication.

But in the present case the facts constituting the alleged infraction by the vessel seized are not in dispute, except some circumstances of alleged aggravation not material to the validity of the seizure. The original ground of the seizure was the purchase by the master of the vessel of a small quantity of bait from an inhabitant of Nova Scotia, to be used in lawful fishing. This purchase is not denied by the owners of the vessel, and the United States Government insists, first, that such an act is not in violation of the treaty of 1818, and second, that no then existing statute in great Britain or Canada authorized any proceedings against the vessel for such an act, even if it could be regarded as in violation of the terms of the treaty, and no such statute has been as yet produced.

In respect to the charge subsequently brought against the *Adams*, and upon which many other vessels have been seized, that of a technical violation of the customs act, in omitting to report at the custom-house, though having no business at the port (and in some instances where the vessel seized was not within several miles of the landing), the United States Government claim, while not admitting that the omission to report was even a technical transgression of the act, that even if it were, no harm having been done or intended, the proceedings against the vessels for an inadvertence of that sort were in a high degree harsh, unreasonable, and unfriendly, especially as for many years no such effect has been given to the act in respect to the fishing vessels, and no previous notice of a change in its construction has been promulgated.

It seems apparent, therefore, that the cases in question, as they are to be considered between the two Governments, present no points upon which the decision of the courts of Nova Scotia need be awaited or would be material.

Nor is it any longer open to the United States Government to anticipate that the acts complained of will (as said by Mr. Fish in the dispatch above quoted) be repudiated as the "pretensions of over-zealous officers of the * * * colonial vessels," because they have been so many times repeated as to constitute a regular system of procedure, have been directed and approved by the Canadian Government, and have been in no wise disapproved or restrained by Her Majesty's Government, though repeatedly and earnestly protested against on the part of the United States.

It is therefore to Her Majesty's Government alone that the United States Government can look for consideration and redress. It can not consent to become, directly or indirectly, a party to the proceedings complained of, nor to await their termination before the questions involved between the two Governments shall be dealt with. Those questions appear to the United States Government to stand upon higher grounds, and to be determined, in large part, at least, upon very different considerations from those upon which the courts of Nova Scotia must proceed in the pending litigation.

Lord Idlesleigh, in the note above referred to, proceeds to express regret that no reply has yet been received from the United States Government to the arguments on

all the points in controversy contained in the report of the Canadian minister of marine and fisheries, of which Lord Rosebery had sent me a copy.

Inasmuch as Lord Idlesleigh and his predecessor, Lord Rosebery, have declined altogether, on the part of Her Majesty's Government, to discuss these questions until the cases in which they arise shall have been judicially decided, and as the very elaborate arguments on the subject previously submitted by the United States Government, remain, therefore without reply, it is not easy to perceive why further discussion of it on the part of the United States should be expected. So soon as Her Majesty's Government consent to enter upon the consideration of the points involved, any suggestions it may advance will receive immediate and respectful attention on the part of the United States. Till then further argument on that side would seem to be neither consistent nor proper.

Still less can the United States Government consent to be drawn, at any time, into a discussion of the subject with the colonial Government of Canada. The treaty in question, and all the international relations arising out of it, exist only between the Governments of the United States and of Great Britain, and between those Governments only can they be dealt with. If, in entering upon that consideration of the subject which the United States have insisted upon, the arguments contained in the report of the Canadian minister should be advanced by Her Majesty's Government, I do not conceive that they will be found difficult to answer.

Two suggestions contained in that report are, however, specially noticed by Lord Idlesleigh, as being "in reply" to the arguments contained in my note. In quoting the substance of the contentions of the Canadian minister on the particular points referred to, I do not understand his lordship to depart from the conclusion of Her Majesty's Government he had previously announced, declining to enter upon the discussion of the cases in which the questions arise. He presents the observations of the report only as those of the Canadian minister made in the argument of points upon which Her Majesty's Government decline at present to enter.

I do not, therefore, feel called upon to make any answer to these suggestions; and more especially as it seems obvious that the subject can not usefully be discussed upon one or two suggestions appertaining to it, and considered by themselves alone. While those mentioned by Lord Idlesleigh have undoubtedly their place in the general argument, it will be seen that they leave quite untouched most of the propositions and reasoning set forth in my note to Lord Rosebery above mentioned. It appears to me that the question can not be satisfactorily treated aside from the cases in which they arise, and that when discussed the whole subject must be gone into in its entirety.

The United States Government is not able to concur in the favorable view taken by Lord Idlesleigh of the efforts of the Canadian Government "to promote a friendly negotiation." That the conduct of that Government has been directed to obtaining a revision of the existing treaty is not to be doubted; but its efforts have been of such a character as to preclude the prospect of a successful negotiation so long as they continue, and seriously to endanger the friendly relations between the United States and Great Britain.

Aside from the question as to the right of American vessels to purchase bait in Canadian ports, such a construction has been given to the treaty between the United States and Great Britain as amounts virtually to a declaration of almost complete non-intercourse with American vessels. The usual comity between friendly nations has been refused in their case, and in one instance, at least, the ordinary offices of humanity. The treaty of friendship and amity which, in return for very important concessions by the United States to Great Britain, reserved to the American vessels certain specified privileges has been construed to exclude them from all other intercourse common to civilized life and to universal maritime usage among nations not at war, as well as from the right to touch and trade accorded to all other vessels.

And quite aside from any question arising upon construction of the treaty, the provisions of the custom-house acts and regulations have been systematically enforced against American ships for alleged petty and technical violations of legal requirements in a manner so unreasonable, unfriendly, and unjust as to render the privileges accorded by the treaty practically nugatory.

It is not for a moment contended by the United States Government that American vessels should be exempt from those reasonable port and custom-house regulations which are in force in countries which such vessels have occasion to visit. If they choose to violate such requirements, their Government will not attempt to screen them from the just legal consequences.

But what the United States Government complain of in these cases is that existing regulations have been construed with a technical strictness, and enforced with a severity, in cases of inadvertent and accidental violation where no harm was done, which is both unusual and unnecessary, whereby the voyages of vessels have been broken up and heavy penalties incurred. That the liberal and reasonable construction of these laws that had prevailed for many years, and to which the fishermen had

become accustomed, was changed without any notice given. And that every opportunity of unnecessary interference with the American fishing vessels, to the prejudice and destruction of their business, has been availed of. Whether in any of these cases, a technical violation of some requirement of law had, upon close and severe construction, taken place, it is not easy to determine. But if such rules were generally enforced in such a manner in the ports of the world, no vessel could sail in safety without carrying a solicitor versed in the intricacies of revenue and port regulations.

It is unnecessary to specify the various cases referred to, as the facts in many of them have been already laid before Her Majesty's Government.

Since the receipt of Lord Idlesleigh's note the United States Government has learned with grave regret that Her Majesty's assent has been given to the act of the Parliament of Canada, passed at its late session, entitled "An act further to amend the act respecting fishing by foreign vessels," which has been the subject of observation in the previous correspondence on the subject between the Governments of the United States and of Great Britain.

By the provisions of this act any foreign ship, vessel, or boat (whether engaged in fishing or not) found within any harbor in Canada, or within 3 marine miles of "any of the coasts, bays, or creeks of Canada," may be brought into port by any of the officers or persons mentioned in the act, her cargo searched, and her master examined upon oath touching the cargo and voyage under a heavy penalty if the questions asked are not truly answered; and if such ship has entered such waters "for any purpose not permitted by treaty or convention or by law of the United Kingdom or of Canada, for the time being in force, such ship, vessel, or boat and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited."

It has been pointed out in my note to Lord Idlesleigh, above mentioned, that the 3-mile limit referred to in this act is claimed by the Canadian Government to include considerable portions of the high seas, such as the Bay of Fundy, the Bay of Chaleur, and similar waters, by drawing the line from headland to headland, and that American fishermen had been excluded from those waters accordingly.

It has been seen also that the term "any purpose not permitted by treaty" is held by that Government to comprehend every possible act of human intercourse, except only the four purposes named in the treaty—shelter, repairs, wood, and water.

Under the provisions of the recent act, therefore, and the Canadian interpretation of the treaty, any American fishing vessel that may venture into a Canadian harbor, or may have occasion to pass through the very extensive waters thus comprehended, may be seized at the discretion of any one of numerous subordinate officers, carried into port, subjected to search and the examination of her master upon oath, her voyage broken up, and the vessel and cargo confiscated, if it shall be determined by the local authorities that she has ever even posted or received a letter or landed a passenger in any part of Her Majesty's dominions in America.

And it is publicly announced in Canada that a larger fleet of cruisers is being prepared by the authorities, and that greater vigilance will be exerted on their part in the next fishing season than in the last.

It is in the act to which the one above referred to is an amendment that is found the provision to which I drew attention in a note to Lord Idlesleigh of December 2, 1886, by which it is enacted that in case a dispute arises as to whether any seizure has or has not been legally made, the burden of proving the illegality of the seizure shall be upon the owner or claimant.

In his reply to that note of January 11, 1887, his lordship intimates that this provision is intended only to impose upon a person claiming a license the burden of proving it. But a reference to the act shows that such is by no means the restriction of the enactment. It refers in the broadest and clearest terms to *any* seizure that is made under the provisions of the act, which covers the whole subject of protection against illegal fishing; and it applies not only to the proof of a license to fish, but to all questions of fact whatever, necessary to a determination as to the legality of a seizure or the authority of the person making it.

It is quite unnecessary to point out what grave embarrassments may arise in the relations between the United States and Great Britain under such administration as is reasonably to be expected of the extraordinary provisions of this act and its amendment, upon which it is not important at this time further to comment.

It will be for Her Majesty's Government to determine how far its sanction and support will be given to further proceedings, such as the United States Government have now repeatedly complained of and have just ground to apprehend may be continued by the Canadian authorities.

It was with the earnest desire of obviating the impending difficulty, and of preventing collisions and dispute until such time as a permanent understanding between the two Governments could be reached, that I suggested, on the part of the United States, in my note to Lord Idlesleigh of September 11, 1886, that an *ad interim* construction of the terms of the treaty might be agreed on, to be carried out by instruc-

tions to be given on both sides without prejudice to the ultimate claims of either, and terminable at the pleasure of either. In an interview I had the honor to have with his lordship, in which this suggestion was discussed, I derived the impression that he regarded it with favor. An outline of such an arrangement was therefore subsequently prepared by the United States Government, which, at the request of Lord Iddeleigh, was submitted to him.

But I observe, with some surprise, that in his note of November 30, last, his lordship refers to that proposal made in my note of 11th September, as a proposition that Her Majesty's Government "should temporarily abandon the exercise of the treaty rights which they claim and which they conceive to be indisputable."

In view of the very grave questions that exist as to the extent of those rights, in respect to which the views of the United States Government differ so widely from those insisted upon by Her Majesty's Government, it does not seem to me an unreasonable proposal that the two Governments, by a temporary and mutual concession, without prejudice, should endeavor to reach some middle ground of *ad interim* construction, by which existing friendly relations might be preserved, until some permanent treaty arrangements could be made.

The reasons why a revision of the treaty of 1818 can not now, in the opinion of the United States Government, be hopefully undertaken, and which are set forth in my note to Lord Iddeleigh of September 11, have increased in force since that note was written.

I again respectfully commend the proposal above mentioned to the consideration of Her Majesty's Government.

I have, etc.,

E. J. PHELPS.

No. 307.

Mr. Bayard to Mr. Phelps.

No. 527.]

DEPARTMENT OF STATE,
Washington, February 1, 1887.

SIR: I transmit to you herewith, for the use of your legation, copies of Senate Executive Document No. 55, Forty-ninth Congress, second session, which contains a revised list of vessels involved in the controversy with the Canadian authorities.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 527.]

[Senate Ex. Doc. No. 55, Forty-ninth Congress, second session.]

Letter from the Secretary of State, transmitting revised lists of vessels involved in the controversy with the Canadian authorities.

JANUARY 27, 1887.—Ordered to be printed, and also to be bound with Senate Report No. 1683.

DEPARTMENT OF STATE,
Washington, January 26, 1887.

SIR: Responding to your request, dated the 17th and received at this Department on the 18th instant, on behalf of the Committee on Foreign Relations, for a revision of the list, heretofore furnished by this Department to the committee, of all American vessels seized, warned, fined, or detained by the Canadian authorities during the year 1886, I now inclose the same.

Every such instance is therein chronologically enumerated, with a statement of the general facts attendant.

Very respectfully, yours,

T. F. BAYARD.

HON. GEORGE F. EDMUNDS,
United States Senate.

List of American vessels seized, detained, or warned off from Canadian ports during the last year.

Sarah B. Putnam.—Beverly, Mass.; Charles Randolph, master. Driven from harbor of Pubnico in storm March 22, 1886.

Joseph Story.—Gloucester, Mass. Detained by customs officers at Baddeck, Nova Scotia, in April, 1886, for alleged violation of the customs laws. Released after twenty-four hours' detention.

Seth Stockbridge.—Gloucester, Mass.; Antone Olson, master. Warned off from St. Andrews, New Brunswick, about April 30, 1886.

Annie M. Jordan.—Gloucester, Mass.; Alexander Haine, master. Warned off at St. Andrews, New Brunswick, about May 4, 1886.

David J. Adams.—Gloucester, Mass.; Alden Kinney, master. Seized at Digby, Nova Scotia, May 7, 1886, for alleged violation of treaty of 1818, act of 59 George III and act of 1883. Two suits brought in vice-admiralty court at Halifax for penalties. Protest filed May 12. Suits pending still, and vessel not yet released apparently.

Susie Cooper.—(Hooper?) Gloucester (r), Mass. Boarded and searched, and crew rudely treated by Canadian officials in Canso Bay, Nova Scotia, May, 1886.

Ellie M. Doughty.—Portland, Me.; Warren A. Doughty, master. Seized at St. Ann's, Cape Breton, May 17, 1886, for alleged violation of the customs laws. Suit was instituted in vice-admiralty court at Halifax, Nova Scotia, but was subsequently abandoned, and vessel was released June 29, 1886.

Jennie and Julia.—Eastport, Me.; W. H. Travis, master. Warned off at Digby, Nova Scotia, by customs officers, May 18, 1886.

Lucy Ann.—Gloucester, Mass.; Joseph H. Smith, master. Warned off at Yarmouth, Nova Scotia, May 29, 1886.

Matthew Keany.—Gloucester, Mass. Detained at Souris, Prince Edward Island, one day for alleged violation of customs laws, about May 31, 1886.

James A. Garfield.—Gloucester, Mass. Threatened, about June 1, 1886, with seizure for having purchased bait in a Canadian harbor.

Martha W. Bradley.—Gloucester, Mass.; J. F. Ventier, master. Warned off at Canso, Nova Scotia, between June 1 and 8, 1886.

Eliza Boynton.—Gloucester, Mass.; George E. Martin, master. Warned off at Canso, Nova Scotia, between June 1 and 9, 1886. Then afterwards detained in manner not reported, and released October 25, 1886.

Mascot.—Gloucester, Mass.; Alexander McEachern, master. Warned off at Port Amherst, Magdalen Islands, June 10, 1886.

Thomas F. Bayard.—Gloucester, Mass.; James McDonald, master. Warned off at Bonne Bay, Newfoundland, June 12, 1886.

James G. Craig.—Portland, Me.; Webber, master. Crew refused privilege of landing for necessities at Brooklyn, Nova Scotia, June 15 or 16, 1886.

City Point.—Portland, Me.; Keene, master. Detained at Shelburne, Nova Scotia, July 2, 1886, for alleged violation of customs laws. Penalty of \$400 demanded. Money deposited, under protest, July 12, and in addition \$120 costs deposited July 14. Fine and costs refunded July 21, and vessel released August 26. Harbor dues exacted August 26, notwithstanding vessel had been refused all the privileges of entry.

C. P. Harrington.—Portland, Me.; Frellick, master. Detained at Shelburne, Nova Scotia, July 3, 1886, for alleged violation of customs laws; fined \$400 July 5; fine deposited, under protest, July 12; \$120 costs deposited July 14; refunded July 21, and vessel released.

Hereward.—Gloucester, Mass.; McDonald, master. Detained two days at Canso, Nova Scotia, about July 3, 1886, for shipping seamen contrary to port laws.

G. W. Cushing.—Portland, Me.; Jewett, master. Detained July (by another report June) 3, 1886, at Shelburne, Nova Scotia, for alleged violation of the customs laws; fined \$400; money deposited with collector at Halifax about July 12 or 14, and \$120 for costs deposited 14th; costs refunded July 21, and vessel released.

Golden Hind.—Gloucester, Mass.; Reuben Cameron, master. Warned off at Bay of Chaleurs, Nova Scotia, on or about July 23, 1886.

Norelty.—Portland, Me.; H. A. Joyce, master. Warned off at Pictou, Nova Scotia, June 28, 1886, where vessel had entered for coal and water; also refused entrance at Amherst, Nova Scotia, July 24.

N. J. Miller.—Booth Bay, Me.; Dickson, master. Detained at Hopewell Cape, New Brunswick, for alleged violation of customs laws, on July 24, 1886. Fined \$400.

Rattler.—Gloucester, Mass.; A. F. Cunningham, master. Warned off at Canso, Nova Scotia, June, 1886. Detained in port of Shelburne, Nova Scotia, where vessel entered seeking shelter August 3, 1886. Kept under guard all night and released on the 4th.

Caroline Fought.—Booth Bay, Me.; Charles S. Reed, master. Warned off at Repbiao, New Brunswick, and refused water, August 4, 1886.

Shiloh.—Gloucester, Mass.; Charles Nevit, master. Boarded at Liverpool, Nova Scotia, August 9, and subjected to rude surveillance.

Julia Ellen.—Booth Bay, Me.; Barnes, master. Boarded at Liverpool, Nova Scotia, August 9, 1886, and subjected to rude surveillance.

Fredie W. Alton.—Provincetown, Mass.; Alton, master. Boarded at Liverpool, Nova Scotia, August 9, 1886, and subjected to rude surveillance.

Howard Holbrook.—Gloucester, Mass. Detained at Hawkesbury, Cape Breton, August 17, 1886, for alleged violation of the customs laws. Released August 20 on deposit of \$400. Question of remission of fine still pending.

A. R. Crittenden.—Gloucester, Mass.; Bain, master. Detained at Hawkesbury, Nova Scotia, August 27, 1886, for alleged violation of customs laws. Four hundred dollars penalty deposited August 28 without protest, and vessel released. Three hundred and seventy-five dollars remitted, and a nominal fine of \$25 imposed.

Mollie Adams.—Gloucester, Mass.; Solomon Jacobs, master. Warned off into storm from Straits of Canso, Nova Scotia, August 31, 1886.

Highland Light.—Wellfleet, Mass.; J. H. Ryder, master. Seized off East Point, Prince Edward Island, September 1, 1886, while fishing within prohibited line. Suit for forfeiture begun in vice-admiralty court at Charlottetown. Hearing set for September 20, but postponed to September 30. Master admitted the charge and confessed judgment. Vessel condemned and sold December 14. Purchased by Canadian Government.

Pearl Nelson.—Provincetown, Mass.; Kemp, master. Detained at Arichat, Cape Breton, September 8, 1886, for alleged violation of customs laws. Released September 9, on deposit of \$200. Deposit refunded October 26, 1886.

Pioneer.—Gloucester, Mass.; F. F. Cruched, master. Warned off at Canso, Nova Scotia, September 9, 1886.

Everett Steel.—Gloucester, Mass.; Charles H. Forbes, master. Detained at Shelburne, Nova Scotia, September 10, 1886, for alleged violation of customs laws. Released by order from Ottawa, September 11, 1886.

Moro Castle.—Gloucester, Mass.; Edwin M. Joyce, master. Detained at Hawkesbury, Nova Scotia, September 11, 1886, on charge of having smuggled goods into Chester, Nova Scotia, in 1884, and also of violating customs laws. A deposit of \$1,000 demanded. Vessel discharged November 29, 1886, on payment, by agreement, of \$1,000 to Canadian Government.

William D. Daisley.—Gloucester, Mass.; J. E. Gorman, master. Detained at Souris, Prince Edward Island, October 4, 1886, for alleged violation of customs law. Fined \$400, and released on payment; \$375 of the fine remitted.

Laura Sayward.—Gloucester, Mass.; Medeo Rose, master. Refused privilege of landing to buy provisions at Shelburne, Nova Scotia, October 5, 1886.

Marion Grimes.—Gloucester, Mass. Detained at Shelburne, Nova Scotia, October 9, for violation of port laws in failing to report at custom-house on entering. Fined \$400. Money paid under protest and vessel released. Fine remitted December 4, 1886.

Jennie Seaverns.—Gloucester, Mass.; Joseph Tupper, master. Refused privilege of landing, and vessel placed under guard at Liverpool, Nova Scotia, October 20, 1886.

Flying Soud.—Gloucester, Mass. Detained for alleged violation of customs laws at Halifax, November 1, or about that time. Released November 16, 1886.

Sarah H. Prior.—Boston, Mass. Refused the restoration of a lost seine, which was found by a Canadian schooner, December, 1886.

Boat (name unknown).—Stephen R. Balcom, master; Eastport, Me. Warned off St. Andrews, New Brunswick, July 9, 1886, with others.

Two small boats (unnamed).—Charles Smith, Pembroke, Me., master. Seized East Quaddy, New Brunswick, September 1, 1886, for alleged violation of customs laws.

Druid (foreign built).—Gloucester, Mass. Seized, warned off, or molested otherwise at some time prior to September 6, 1886.

Abbey A. Snow.—Injury to this vessel has not been reported to the Department of State.

Eliza A. Thomas.—Injury to this vessel has not been reported to the Department of State.

Wide-Awake.—Eastport, Me.; William Foley, master. Fined at L'Etang, New Brunswick, \$75 for taking away fish without getting a clearance; again November 13, 1886, at St. George, New Brunswick, fined \$20 for similar offense. In both cases he was proceeding to obtain clearances.

No. 308.

Mr. Bayard to Mr. Phelps.

No. 528.]

DEPARTMENT OF STATE,

Washington, February 1, 1837.

SIR: I received on the 29th ultimo a reply* from the British minister at this capital to my notes to him on the 19th and 20th of October last, relative to the cases of the American fishing vessels *Pearl Nelson* and *Everett Steele*.

The note of Sir Lionel West serves only to inclose the communication of the Marquis of Lansdowne to Mr. Stanhope. Whilst the letter of Lord Lansdowne proceeds upon the assumption of grounds never accepted by this Government as the basis of discussion of the rights of our fishermen, and fails to admit the obvious and essential right of American fishermen to resort for purposes not abusive of the ancient privileges guaranteed by the treaty of 1818, in the Canadian bays and harbors, yet I am glad to see that the tone of his discussion indicates the growth of a disposition to consider the case of the American fishermen in a more friendly light than heretofore in the discussions of the past season.

The letters will be communicated to Congress as supplementary to the information heretofore laid before them by the President.

I am, etc.,

T. F. BAYARD.

No. 309.

Mr. Bayard to Mr. Phelps.

No. 536.]

DEPARTMENT OF STATE,

Washington, February 8, 1837.

SIR: I have to acknowledge your dispatch of the 27th ultimo, No. 423, which was accompanied by a copy of the note to you of the late Lord Idesleigh, under date of December 16, 1836, and also one from Sir Julian Pauncefote, dated January 14, 1837, and also a copy of your note to the Marquis of Salisbury under date of January 26 ultimo.

I desire to express my entire satisfaction with the position correctly assumed and admirably and logically sustained by you in this relation.

Your telegrams of the 5th instant and of yesterday, with reference to the same question, have been received.

As part of the general case, and as bearing with unusual clearness upon the Canadian claims of construction of the convention of 1818, I transmit herewith copies of a note† from Sir Lionel West, dated the 28th ultimo, inclosing a dispatch from Lord Lansdowne, governor-general of Canada, to Mr. Stanhope, dated November 9, 1836, which is accompanied by reports of the committee of the privy council for Canada, and of Mr. Thompson, the minister of justice at Ottawa.

It may be noted that this reply of the British minister at this capital to my note to him of May 20, 1836, is dated on the 28th ultimo, giving some eight months for the completion of the circuit of correspondence.

At page 15 of the printed inclosure and in the last paragraph will be found the explicit avowal of claim by the Canadian Government to

* Printed p. 516 *infra*.† Printed p. 502 *infra*.

employ the convention of 1818 as an instrument of interference with the exercise of open-sea fishing by citizens of the United States, and to give it such a construction as will enable the fishermen of the provinces better to compete at less "disadvantage in the markets of the United States" in the pursuit of the deep-sea fisheries.

At the outset of this discussion, in my note to Sir Lionel West, of May 10, 1886, I said :

The question, therefore, arises whether such a construction is admissible as would convert the treaty of 1818 from being an instrumentality for the protection of the in-shore fisheries along the described parts of the British American coasts into a pretext or means of obstructing the business of deep-sea fishing by citizens of the United States, and of interrupting and destroying the commercial intercourse that since the treaty of 1818, and independent of any treaty whatever, has grown up and now exists under the concurrent and friendly laws and mercantile regulations of the respective countries.

When I wrote this I hardly expected that the motives I suggested, rather than imputed, would be admitted by the authorities of the provinces, and was entirely unprepared for a distinct avowal thereof, not only as regards the obstruction of deep-sea fishing operations by our fishermen, but also in respect of their independent commercial intercourse, yet it will be seen that the Canadian minister of justice avers that it is "in itself prejudicial" to the interests of the provinces "that United States fishermen should be permitted to come into their harbors on any pretext."

The correspondence now sent to you, together with others relating to the same subject that has taken place since the President's message of December 8, communicating the same to Congress, will be laid before Congress without delay, and will assist the two houses materially in the legislation proposed for the security of the rights of American fishing vessels under treaty and international law and comity.

I am, etc.,

T. F. BAYARD.

No. 310.

Mr. White to Mr. Bayard.

No. 456.]

LEGATION OF THE UNITED STATES,
London, March 2, 1887. (Received March 14.)

SIR: I have the honor to inclose herewith, for your information, an extract from the report contained in yesterday's Times of the proceedings in Parliament on the 28th February, embodying the answer made by Sir James Ferguson, under secretary of state for foreign affairs, to a question put to him by Dr. Tanner in reference to the proposed retaliatory measures against Canada.

I deem it proper to add that Mr. George W. Smalley, the well-known correspondent of the New York Tribune, has informed me of a conversation which he had recently with the same functionary, and in the course of which Sir James Ferguson assured him that the Government's late dispatches from Canada on the subject of the fisheries had been of a very conciliatory nature, and that a *modus vivendi* would very shortly be proposed to you by the British minister at Washington, which Her Majesty's Government had reason to hope would be satisfactory to the United States.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 456.—Extract from the Report of Parliamentary Proceedings of February 28, 1887.]

NORTH AMERICAN FISHERIES.

Dr. TANNER asked the under secretary for foreign affairs whether his attention had been drawn to the following cablegram—"New York February 24. A convention of smack-owners and others connected with the fishing interests has met at Gloucester, Mass., and adopted resolutions in favor of retaliatory measures against Canada." (REUTER)—and whether any measures were being taken by the Government to reconcile the differences existing between the United States of America and Great Britain on this fishery question.

Sir J. FERGUSON. I am aware of the paragraph quoted by the honorable member, and of other news showing the strong feeling entertained in the United States in regard to the Canadian fishery question. Her Majesty's Government are giving the subject the earnest attention which the importance of the matter requires. (From The Times, March 1, 1887.)

No. 312.

Mr. Bayard to Mr. Phelps.

No. 563.]

DEPARTMENT OF STATE,
Washington, March 11, 1887.

SIR: I inclose herewith, for the use of your legation, copies of the act of Congress (Public, No. 125), entitled "An act to authorize the President of the United States to protect and defend the rights of American fishing vessels, American fishermen, American trading and other vessels, in certain cases, and for other purposes," approved March 3, 1887.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 563.]

[Public—No. 125.]

AN ACT to authorize the President of the United States to protect and defend the rights of American fishing vessels, American fishermen, American trading and other vessels, in certain cases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall be satisfied that American fishing vessels or American fishermen, visiting or being in the waters or at any ports or places of the British dominions of North America, are or then lately have been denied or abridged in the enjoyment of any rights secured to them by treaty or law, or are or then lately have [been] unjustly vexed or harassed in the enjoyment of such rights, or subjected to unreasonable restrictions, regulations, or requirements in respect of such rights; or otherwise unjustly vexed or harassed in said waters, ports, or places; or whenever the President of the United States shall be satisfied that any such fishing vessels or fishermen, having a permit under the laws of the United States to touch and trade at any port or ports, place or places, in the British dominions of North America, are or then lately have been denied the privilege of entering such port or ports, place or places in the same manner and under the same regulations as may exist therein applicable to trading vessels of the most favored nation, or shall be unjustly vexed or harassed in respect thereof, or otherwise be unjustly vexed or harassed therein, or shall be prevented from purchasing such supplies as may there be lawfully sold to trading vessels of the most favored nation; or whenever the President of the United States shall be satisfied that any other vessels of the United States, their masters or crews, so arriving at or being in such British waters or ports or places of the British dominions of North America, are or then lately have been denied any of the privileges therein accorded to the vessels, their masters or crews, of the most favored nation, or unjustly vexed or harassed in

respect of the same, or unjustly vexed or harassed therein by the authorities thereof, then, and in either or all of such cases, it shall be lawful, and it shall be the duty of the President of the United States, in his discretion, by proclamation to that effect, to deny vessels, their masters and crews, of the British dominions of North America, any entrance into the waters, ports, or places of, or within the United States (with such exceptions in regard to vessels in distress, stress of weather, or needing supplies as to the President shall seem proper), whether such vessels shall have come directly from said dominions on such destined voyage or by way of some port or place in such destined voyage elsewhere; and also, to deny entry into any port or place of the United States of fresh fish or salt fish or any other product of said dominions, or other goods coming from said dominions to the United States. The President may, in his discretion, apply such proclamation to any part or to all of the foregoing-named subjects, and may revoke, qualify, limit, and renew such proclamation from time to time as he may deem necessary to the full and just execution of the purposes of this act. Every violation of any such proclamation, or any part thereof, is hereby declared illegal, and all vessels and goods so coming or being within the waters, ports, or places of the United States contrary to such proclamation shall be forfeited to the United States; and such forfeiture shall be enforced and proceeded upon in the same manner and with the same effect as in the case of vessels or goods whose importation or coming to or being in the waters or ports of the United States contrary to law may now be enforced and proceeded upon. Every person who shall violate any of the provisions of this act, or such proclamation of the President made in pursuance hereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both said punishments, in the discretion of the court.

Approved, March 3, 1887.

No. 314.

Mr. White to Mr. Bayard.

No. 472.]

LEGATION OF THE UNITED STATES,
London, March 23, 1887. (Received April 4.)

SIR: I have the honor to inclose herewith for your information copies of questions asked in the House of Commons yesterday and the day before with regard to our difficulty with Canada respecting the fisheries, together with the answers made to the same by the under secretary of state for foreign affairs.

According to one of these answers it would seem that the British Government's reply on the subject of a *modus vivendi* must soon be in our hands.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 472.]

Parliamentary proceedings, March 21, 1887.

NORTH AMERICAN FISHERIES.

Mr. GOURLEY asked the under secretary for foreign affairs whether he could inform the House of the nature of the dispatch received from the Dominion Government suggesting a *modus vivendi* for a settlement of the Anglo-American fisheries dispute, and when he anticipated that further promised correspondence would be in the hands of members; and whether the prohibition of the sale of bait to United States fishermen in Newfoundland (while permitted to French fishermen) was in harmony with "the most favored nation" clause of foreign treaties.

Sir J. FERGUSON. Her Majesty's Government will be desirous of informing the House of the course of negotiations with the Government of the United States upon the fisheries dispute as soon as possible. I hope to lay on the table the dispatch now being addressed to the United States Government before the Easter recess. I hope

House will excuse me from entering upon the questions affecting the Newfoundland fisheries in a fragmentary manner. Her Majesty's Government will be careful to observe their international obligations, while having due regard to the interests of her Majesty's subjects. (From the Times, March 22, 1887.)

[Inclosure 2 in No. 472.]

[Parliamentary Proceedings, March 22, 1887.]

THE CANADIAN FISHERIES DISPUTE.

Mr. GOURLEY asked the under secretary of state of foreign affairs whether there was any truth in the statement that the Canadian Government is negotiating for the purchase of armed cruisers for the purpose of enforcing the Anglo-American Fisheries Convention of 1818, as interpreted by the Dominion Government; and, if so, whether the proposed proceedings have the sanction of Her Majesty's Government.

Sir J. FERGUSSON. I only saw the question on entering the House, and I beg to submit to the House that a somewhat longer notice of such questions should be given than even one night. [Hear!] No information on the subject has reached the foreign office, and the secretary of state for the colonies informs me that he has not heard of it. I may add that the purchase of cruisers is a matter within the discretion of the Canadian Government. (From the Times, March 23, 1887.)

No. 315.

Mr. White to Mr. Bayard.

No. 475.]

LEGATION OF THE UNITED STATES,
London, March 26, 1887. (Received April 5.)

SIR: I have the honor to inclose herewith two printed copies of a note* which I have received from the Marquis of Salisbury, in reply to the proposals for a *modus vivendi*, contained in your instruction numbered 459, of November 12 last, to Mr. Phelps.

I have, etc.,

HENRY WHITE.

No. 316.

Mr. White to Mr. Bayard.

No. 478.]

LEGATION OF THE UNITED STATES,
London, March 30, 1887. (Received April 11.)

SIR: Referring to my dispatch numbered 475, of March 26, I have the honor to inclose herewith the copy of a note which I received yesterday from the Marquis of Salisbury, adding a clause to the observations on Article III of your proposal for a *modus vivendi*, which formed a part of inclosure No. 2 to his lordship's note of the 24th instant, in reference to the Canadian fisheries.

I have the honor also to inclose herewith four copies of the note in question, corrected as above, and I beg to add that I have marked the newly inserted clause at page No. 10 of the same.

I have, etc.,

HENRY WHITE.

* Printed as amended by Mr. White's, No. 478, p. 469, *infra*.

[Inclosure 1 in No. 478.]

The Marquis of Salisbury to Mr. White.

FOREIGN OFFICE, March 24, 1887.

SIR: In a note of the 3d December last, addressed to my predecessor, Mr. Phelps was good enough to transmit a copy of a dispatch from Mr. Bayard, dated the 15th of the preceding month, together with an outline of a proposed *ad interim* arrangement "for the settlement of all questions in dispute in relation to the fisheries on the northeastern coasts of British North America."

Her Majesty's Government have given their most careful consideration to that communication, and it has also received the fullest examination at the hands of the Canadian Government, who entirely share the satisfaction felt by Her Majesty's Government at any indication on the part of that of the United States of a disposition to make arrangements which might tend to put the affairs of the two countries on a basis more free from controversy and misunderstanding than unfortunately exists at present. The Canadian Government, however, deprecate several passages in Mr. Bayard's dispatch which attribute unfriendly motives to their proceedings, and in which the character and scope of the measures they have taken to enforce the terms of the convention of 1818 are, as they believe, entirely misapprehended.

They insist that nothing has been done on the part of the Canadian authorities since the termination of the Treaty of Washington in any such spirit as that which Mr. Bayard condemns, and that all that has been done with a view to the protection of the Canadian fisheries has been simply for the purpose of guarding the rights guaranteed to the people of Canada by the convention of 1818, and of enforcing the statutes of Great Britain and of Canada in relation to the fisheries. They maintain that such statutes are clearly within the powers of the respective Parliaments by which they were passed, and are in conformity with the convention of 1818, especially in view of the passage of the convention which provides that the American fishermen shall be under such restrictions as shall be necessary to prevent them from abusing the privileges thereby reserved to them.

There is a passage in Mr. Bayard's dispatch to which they have particularly called the attention of Her Majesty's Government. It is the following:

"The numerous seizures made have been of vessels quietly at anchor in established ports of entry, under charges which up to this day have not been particularized sufficiently to allow of intelligent defense; not one has been condemned after trial and hearing, but many have been fined, without hearing or judgment, for technical violation of alleged commercial regulations, although all commercial privileges have been simultaneously denied to them."

In relation to this paragraph the Canadian Government observe that the seizures of which Mr. Bayard complains have been made upon grounds which have been distinctly and unequivocally stated in every case; that, although the nature of the charges has been invariably specified and duly announced, those charges have not in any case been answered; that ample opportunity has in every case been afforded for a defense to be submitted to the executive authorities, but that no defense has been offered beyond the mere denial of the right of the Canadian Government; that the courts of the various provinces have been open to the parties said to have been aggrieved, but that not one of them has resorted to those courts for redress. To this it is added that the illegal acts which are characterized by Mr. Bayard as "technical violations of alleged commercial regulations," involved breaches, in most of the cases not denied by the persons who had committed them, of established commercial regulations which, far from being specially directed or enforced against citizens of the United States, are obligatory upon all vessels (including those of Canada herself) which resort to the harbors of the British North American coast.

I have thought it right, in justice to the Canadian Government, to embody in this note almost in their own terms their refutation of the charges brought against them by Mr. Bayard; but I would prefer not to dwell on this part of the controversy, but to proceed at once to the consideration of the six articles of Mr. Bayard's memorandum in which the proposals of your Government are embodied.

Mr. Bayard states that he is "encouraged in the expectation that the propositions embodied in the memorandum will be acceptable to Her Majesty's Government, because, in the month of April, 1866, Mr. Seward, then Secretary of State, sent forward to Mr. Adams, at that time United States minister in London, the draft of a protocol which, in substance, coincides with the first article of the proposal now submitted."

Article 1 of the memorandum no doubt to some extent resembles the draft protocol submitted in 1866 by Mr. Adams to Lord Clarendon, of which I inclose a copy for convenience of reference, but it contains some important departures from its terms.

Nevertheless, the article comprises the elements of a possible accord, and if it stood alone I have little doubt that it might be so modeled, with the concurrence of your Government, as to present an acceptable basis of negotiation to both parties. But,

March 24, 1887.

Mr. Phelps dated the 15th interim arrangement on the fisheries on the

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unfortunately, it is followed by other articles which, in the view of Her Majesty's Government and that of Canada, would give rise to endless and unprofitable discussion, and which, if retained, would be fatal to the prospect of any satisfactory arrangement, inasmuch as they appear as a whole to be based on the assumption that upon the most important points in the controversy the views entertained by Her Majesty's Government and that of Canada are wrong, and those of the United States Government are right, and to imply an admission by Her Majesty's Government and that of Canada that such assumption is well founded.

I should extend the present note to an undue length were I to attempt to discuss in it each of the articles of Mr. Bayard's memorandum, and to explain the grounds on which Her Majesty's Government feel compelled to take exception to them. I have therefore thought it more convenient to do so in the form of a counter-memorandum, which I have the honor to inclose, and in which will be found, in parallel columns, the articles of Mr. Bayard's memorandum, and the observations of Her Majesty's Government thereon.

Although, as you will perceive on a perusal of those observations, the proposal of your Government as it now stands is not one which could be accepted by Her Majesty's Government, still Her Majesty's Government are glad to think that the fact of such a proposal having been made affords an opportunity which, up to the present time, had not been offered for an amicable comparison of the views entertained by the respective Governments.

The main principle of that proposal is that a mixed commission should be appointed for the purpose of determining the limits of those territorial waters within which, subject to the stipulations of the convention of 1818, the exclusive right of fishing belongs to Great Britain.

Her Majesty's Government cordially agree with your Government in believing that a determination of these limits would, whatever may be the future commercial relations between Canada and the United States, either in respect of the fishing industry or in regard to the interchange of other commodities, be extremely desirable, and they will be found ready to co-operate with your Government in effecting such a settlement.

They are of opinion that Mr. Bayard was justified in reverting to the precedent afforded by the negotiations which took place upon this subject between Great Britain and the United States after the expiration of the reciprocity treaty of 1854, and they concur with him in believing that the draft protocol communicated by Mr. Adams in 1866 to the Earl of Clarendon affords a valuable indication of the lines upon which a negotiation directed to the same points might now be allowed to proceed.

Mr. Bayard has himself pointed out that its concluding paragraph, to which Lord Clarendon emphatically objected, is not contained in the first article of the memorandum now forwarded by him; but he appears to have lost sight of the fact that the remaining articles of that memorandum contain stipulations not less open to objection, and calculated to affect even more disadvantageously the permanent interests of the Dominion in the fisheries adjacent to its coasts.

There can be no objection on the part of Her Majesty's Government to the appointment of a mixed commission, whose duty it would be to consider and report upon the matters referred to in the three first articles of the draft protocol communicated to the Earl of Clarendon by Mr. Adams in 1866.

Should a commission instructed to deal with these subjects be appointed at an early date, the result of its investigations might be reported to the Governments affected without much loss of time. Pending the termination of the questions which it would discuss, it would be indispensable that United States fishing vessels entering Canadian bays and harbors should govern themselves not only according to the terms of the convention of 1818, but by the regulations to which they, in common with other vessels, are subject while within such waters.

Her Majesty's Government, however, have no doubt that every effort will be made to enforce those regulations in such a manner as to cause the smallest amount of inconvenience to fishing vessels entering Canadian ports under stress of weather, or for any other legitimate purpose.

But there is another course which Her Majesty's Government are inclined to propose, and which, in their opinion, would afford a temporary solution of the controversy equally creditable to both parties.

Her Majesty's Government have never been informed of the reasons which induced the Government of the United States to denounce the fishery articles of the treaty of Washington, but they have understood that the adoption of that course was in a great degree the result of a feeling of disappointment at the Halifax award, under which the United States were called upon to pay the sum of 1,100,000*l.*, being the estimated value of the benefits which would accrue to them, in excess of those which would be derived by Canada and Newfoundland from the operation of the fishery articles of the treaty.

Her Majesty's Government and the Government of Canada, in proof of their earnest desire to treat the question in a spirit of liberality and friendship, are now willing to

revert for the coming fishing season, and, if necessary, for a further term, to the condition of things existing under the treaty of Washington, without any suggestion of pecuniary indemnity.

This is a proposal which, I trust, will commend itself to your Government as being based on that spirit of generosity and good will which should animate two great and kindred nations, whose common origin, language, and institutions constitute as many bonds of amity and concord.

I have, etc.,

SALISBURY.

[Inclosure 2 in No. 478.]

Draft protocol communicated by Mr. Adams to the Earl of Clarendon in 1866.

Whereas in the first article of the convention between the United States and Great Britain, concluded and signed in London on the 26th October, 1818, it was declared that—

“The United States hereby renounce, for ever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within 3 marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty’s dominions in America, not included within certain limits heretofore mentioned;”

And whereas differences have arisen in regard to the extent of the above-mentioned renunciation, the Government of the United States and Her Majesty the Queen or Great Britain, being equally desirous of avoiding further misunderstanding, have agreed to appoint, and do hereby authorize the appointment, of a mixed commission for the following purposes, namely:

(1) To agree upon and define, by a series of lines, the limits which shall separate the exclusive from the common right of fishery, on the coasts and in the seas adjacent, of the British North American colonies, in conformity with the first article of the convention of 1818. The said lines to be regularly numbered, duly described, and also clearly marked on charts prepared in duplicate for the purpose.

(2) To agree upon and establish such regulations as may be necessary and proper to secure to the fishermen of the United States the privilege of entering bays and harbors for the purpose of shelter; and of repairing damages therein; of purchasing wood, and of obtaining water; and to agree upon and establish such restrictions as may be necessary to prevent the abuse of the privilege reserved by said convention to fishermen of the United States.

(3) To agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial and judgment with as little expense as possible, for the violation of rights and the transgression of the limits and restrictions which may be hereby adopted.

Provided, however, that the limits, restrictions, and regulations which may be agreed upon by the said commission shall not be final, nor have any effect, until so jointly confirmed and declared by the United States and Her Majesty the Queen of Great Britain, either by treaty or by laws mutually acknowledged and accepted by the President of the United States, by and with the consent of the Senate, and by Her Majesty the Queen of Great Britain.

Pending a different arrangement on the subject, the United States Government engages to give all proper orders to officers in its employment; and Her Britannic Majesty’s Government engages to instruct the proper colonial or other British officers to abstain from hostile acts against British and United States fishermen respectively.

[Inclosure 3 in No. 478.]

Interim arrangement proposed by the United States Government.

ARTICLE I.

Observations on Mr. Bayard’s memorandum.

Whereas, in the first article of the convention between the United States and Great Britain, concluded and signed in London on the 26th October, 1818, it was agreed between the high contracting parties “that the inhabitants of the said United States shall have forever, in com-

The most important departure in this article from the Protocol of 1866 is the interpolation of the stipulation, “that the bays and harbors from which American vessels are in future to be excluded, save for the purposes for which entrance into bays and harbors is permitted by said

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(1) To agree upon and establish by a series of lines the limits which shall separate the exclusive from the common right of fishing on the coast and in the adjacent waters of the British North American Colonies, in conformity with the first article of the convention of 1818, except that the bays and harbors from which American fishermen are in the future to be excluded, save for the purposes for which entrance into bays and harbors is permitted by said article, are hereby agreed to be taken to be such bays and harbors as are 10 or less than 10 miles in width, and the distance of 3 marine miles from

article, are hereby agreed to be taken to be such harbors as are 10, or less than 10, miles in width, and the distance of 3 marine miles from such bays and harbors shall be measured from a straight line drawn across the bay or harbor in the part nearest the entrance at the first point where the width does not exceed 10 miles."

This provision would involve a surrender of fishing rights which have always been regarded as the exclusive property of Canada, and would make common fishing-grounds of territorial waters which, by the law of nations, have been invariably regarded both in Great Britain and the United States as belonging to the adjacent country. In the case, for instance, of the Baie des Chaleurs, a peculiarly well-marked and almost land-locked indentation of the Canadian coast, the 10-mile line would be drawn from points in the heart of Canadian territory, and almost 70 miles distance from the natural entrance or mouth of the bay. This would be done in spite of the fact that, both by Imperial legislation and by judicial interpretation, this bay has been declared to form a part of the territory of Canada. (See Imperial Statute 14 and 15 Vict., cap. 63; and *Mout v. McPhee*, 5 Sup. Court of Canada Reports, p. 66.)

The convention with France in 1839, and similar conventions with other European Powers, form no precedents for the adoption of a 10-mile limit. Those conventions were doubtless passed with a view to the geographical peculiarities of the coast to which they related. They had for their object the definition of boundary-lines which, owing to the configuration of the coast, perhaps could not readily be settled by reference to the law of nations, and involve other conditions which are inapplicable to the territorial waters of Canada.

This is shown by the fact that in the French convention the whole of the oyster-beds in Granville Bay, otherwise called the Bay of Cancale, the entrance of which exceeds 10 miles in width, were regarded as French, and the enjoyment of them is reserved to the local fishermen.

A reference to the action of the United States Government, and to the admission made by their statesmen in regard to bays on the American coasts, strengthens this view; and the case of the English ship *Grange* shows that the Government of the United States in 1793 claimed Delaware Bay as being within territorial waters.

Mr. Bayard contends that the rule which he asks to have set up was adopted by the umpire of the commission appointed under the convention of 1853 in the case of the United States fishing-schooner *Washington* that it was by him applied to the Bay of Fundy, and that it is for this reason applicable to other Canadian bays.

such bays and harbors shall be measured from a straight line drawn across the bay or harbor, in the part nearest the entrance, at the first point where the width does not exceed 10 miles, the said lines to be regularly numbered, duly described, and also clearly marked on charts prepared in duplicate for the purpose.

(2) To agree upon and establish such regulations as may be necessary and proper to secure to the fishermen of the United States the privilege of entering bays and harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and to agree upon and establish such restrictions as may be necessary to prevent the abuse of the privilege reserved by said convention to the fishermen of the United States.

(3) To agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial and judgment, with as little expense as possible, for the violators of rights and the transgressors of the limits and restrictions which may be hereby adopted:

Provided, however, That the limits, restrictions, and regulations which may be agreed upon by the said commission shall not be final, nor have any effect, until so jointly confirmed and declared by the United States and Her Majesty the Queen of Great Britain, either by treaty or by laws mutually acknowledged.

ARTICLE II.

Pending a definitive arrangement on the subject, Her Britannic Majesty's Government agree to instruct the proper colonial and other British officers to abstain from seizing or molesting fishing vessels of the United States unless they are found within 3 marine miles of any of the coasts, bays, creeks, and harbors of Her Britannic Majesty's dominions in America, there fishing, or to have been fishing or preparing to fish within those limits, not included within the limits within which, under the treaty of 1818, the fishermen of the United States continue to retain a common right of fishery with Her Britannic Majesty's subjects.

ARTICLE III.

For the purpose of executing Article I of the convention of 1818, the Government of the United States and the Government of Her Britannic Majesty hereby agree to send each to the Gulf of St. Lawrence a national vessel, and also one each to cruise during the fishing season on the

It is submitted, however, that as one of the headlands of the Bay of Fundy is in the territory of the United States any rules of international law applicable to that bay are not therefore equally applicable to other bays the headlands of which are both within the territory of the same power.

The second paragraph of the first article does not incorporate the exact language of the convention of 1818. For instance, the words, "and for no other purpose whatever," should be inserted after the mention of the purposes for which vessels may enter Canadian waters, and after the words, "as may be necessary to prevent," should be inserted, "their taking, drying, or curing fish therein, or in any other manner abusing the privileges reserved," etc.

To make the language conform correctly to the convention of 1818, several other verbal alterations, which need not be enumerated here, would be necessary.

This article would suspend the operation of the statutes of Great Britain and of Canada, and of the provinces now constituting Canada, not only as to the various offenses connected with fishing, but as to customs, harbors, and shipping, and would give to the fishing vessels of the United States privileges in Canadian ports which are not enjoyed by vessels of any other class or of any other nation. Such vessels would, for example, be free from the duty of reporting at the customs on entering a Canadian harbor, and no safeguard could be adopted to prevent infraction of the customs laws by any vessel asserting the character of a fishing vessel of the United States.

Instead of allowing to such vessels merely the restricted privileges reserved by the convention of 1818, it would give them greater privileges than are enjoyed at the present time by any vessels in any part of the world.

This article would deprive the courts in Canada of their jurisdiction, and would vest that jurisdiction in a tribunal not bound by legal principles, but clothed with supreme authority to decide on most important rights of the Canadian people.

It would submit such rights to the ad-

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southern coasts of Nova Scotia. Whenever a fishing vessel of the United States shall be seized for violating the provisions of the aforesaid convention by fishing or preparing to fish within 3 marine miles of any of the coasts, bays, creeks, and harbors of Her Britannic Majesty's dominions included within the limits within which fishing is by the terms of the said convention renounced, such vessel shall forthwith be reported to the officer in command of one of the said national vessels, who, in conjunction with the officer in command of another of said vessels of different nationality, shall hear and examine into the facts of the case. Should the said commanding officers be of opinion that the charge is not sustained, the vessel shall be released. But if they should be of opinion that the vessel should be subjected to a judicial examination, she shall forthwith be sent for trial before the vice-admiralty court at Halifax. If, however, the said commanding officers should differ in opinion, they shall name some third person to act as umpire between them, and should they be unable to agree upon the name of such third person, they shall each name a person, and it shall be determined by lot which of the two persons so named shall be the umpire.

ARTICLE IV.

The fishing vessels of the United States shall have in the established ports of entry of Her Britannic Majesty's dominions in America the same commercial privileges as other vessels of the United States, including the purchase of bait and other supplies; and such privileges shall be exercised subject to the same rules and regulations and payment of the same port charges as are prescribed for other vessels of the United States.

ARTICLE V.

The Government of Her Britannic Majesty agree to release all United States fishing vessels now under seizure for failing to report at custom-houses when seeking shelter, repairs, or supplies, and to refund all fines exacted for such failure to report. And the high contracting parties agree to appoint a joint commission to as-

judication of two naval officers, one of them belonging to a foreign country, who, if they should disagree and be unable to choose an umpire, must refer the final decision of the great interests which might be at stake to some person chosen by lot.

If a vessel charged with infraction of Canadian fishing rights should be thought worthy of being subjected to a "judicial examination," she would be sent to the vice-admiralty court at Halifax, but there would be no redress, no appeal, and no reference to any tribunal if the naval officers should think proper to release her.

It should, however, be observed that the limitation in the second sentence of this article of the violations of the convention which are to render a vessel liable to seizure could not be accepted by Her Majesty's Government.

For these reasons, the article in the form proposed is inadmissible, but Her Majesty's Government are not indisposed to agree to the principle of a joint inquiry by the naval officers of the two countries in the first instance, the vessel to be sent for trial at Halifax if the naval officers do not agree that she should be released. They fear, however, that there would be serious practical difficulties in giving effect to this arrangement, owing to the great length of coast and the delays which must in consequence be frequent in securing the presence at the same time and place of the naval officers of both Powers.

This article is also open to grave objection. It proposes to give the United States fishing vessels the same commercial privileges as those to which other vessels of the United States are entitled, although such privileges are expressly renounced by the convention of 1818 on behalf of fishing vessels, which were thereafter to be denied the right of access to Canadian waters for any purpose whatever, except those of shelter, repairs, and the purchase of wood and water. It has frequently been pointed out that an attempt was made, during the negotiations which preceded the convention of 1818, to obtain for the fishermen of the United States the right of obtaining bait in Canadian waters, and that this attempt was successfully resisted. In spite of this fact, it is proposed, under this article, to declare that the convention of 1818 gave that privilege, as well as the privilege of purchasing other supplies in the harbors of the Dominion.

By this article it is proposed to give retrospective effect to the unjustified interpretation sought to be placed on the convention by the last preceding article.

It is assumed, without discussion, that all United States fishing vessels which have been seized since the expiration of the treaty of Washington have been

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certain the amount of damage caused to American fishermen during the year 1886 by seizure and detention in violation of the treaty of 1818, said commission to make awards therefor to the parties injured.

illegally seized leaving as the only question still open for consideration the amount of the damages for which the Canadian authorities are liable.

Such a proposal appears to Her Majesty's Government quite inadmissible.

ARTICLE VI.

The Government of the United States and the Government of Her Britannic Majesty agree to give concurrent notification and warning of Canadian customs regulations, and the United States agree to admonish its fishermen to comply with them and co-operate in securing their enforcement.

This article calls for no remark.

No. 317.

Mr. Phelps to Mr. Bayard.

No. 501.]

LEGATION OF THE UNITED STATES,
London, April 22, 1887. (Received May 3.)

SIR: I have the honor to inclose herewith two copies of a parliamentary paper* (United States, No. 2, 1887) just issued by the British Government and containing further correspondence on the subject of the fisheries, together with a leading article from the Times of 21st instant in reference thereto, and the correction I caused to be inserted in today's issue of that newspaper of one of its statements.

I have, etc.,

E. J. PHELPS.

[Inclosure 1 in No. 501. — From the Times, Thursday, April 21, 1887.]

The Canadian fisheries question is not finally settled; in fact, that much to be desired end seems far off. The further official correspondence published yesterday shows that diplomacy has moved without advancing much. Who is responsible? Not, in the main, either the Home Government or the Dominion Government. We must do them the justice to own that they have not been exacting or punctilious. The former have made overtures of a fair and even generous nature. Their fault, if any, has been one not unknown in negotiating with astute diplomatists; they have, perhaps, undervalued the advantage of standing still and waiting to see whether the other side moves. Last December the American minister communicated to Lord Iddesleigh a proposal for an *ad interim* arrangement, the chief feature of which was the establishment of a mixed commission in order to "separate the exclusive from the common right of fishing on the coasts and in the adjacent waters of the British North American colonies;" the vexed question of the headlands to be settled by laying it down that the bays and harbors into which entrance is not generally permitted are "to be taken to be such bays and harbors as are 10 or less than 10 miles in width, and the distance of 3 marine miles from such bays and harbors, to be measured from a straight line drawn across the bay or harbor in the part nearest the entrance at the first point where the width does not exceed 10 miles." The commissioners would also be empowered to make regulations to secure the right of entry of fishermen of the United States into bays and harbors for the purpose of safety and the like, and also to make arrangements for the speedy trial of offenders. In the mean time no seizures would take place; vessels of war of this country and the United States would act as police, and American fishing vessels would have the same commercial privileges, including the purchase of bait and other supplies, as other vessels of the United States. This proposal found no favor in Canada or here. Lord Landsdowne's advisers pointed out

* This paper contains the correspondence between the two Governments which has also been published by the Government of the United States,

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that it was open to serious objections. The proposed mode of measuring bays and harbors and the suggested 3-mile line would involve an abandonment by Canada of exclusive rights which are indisputably hers; for example, the land-locked Baie des Chaleurs, which by Imperial statute and judicial construction has been declared to be part of the territory of Canada, would be dealt with as if it were part of the open sea. The proposal as to the provisional position of fishing vessels is equivalent to a request that Canada should give up one of the express benefits of the treaty of 1818. Lord Salisbury was equally unsparing in his criticism of the *ad interim* proposal. As he pointed out, one of the suggestions was to "give to fishing vessels of the United States privileges in Canadian ports which are not enjoyed by vessels of any other class or any other nation."

But very wisely too much has not been made of these objections. The matter has not ended there. The sooner this question is settled the better for all concerned, and the Government acted properly in allowing the door to remain open. "Her Majesty's Government and the Government of Canada," said Lord Salisbury in his dispatch of March 24, "in proof of the earnest desire to treat the question in a spirit of liberality and friendship, are now willing to revert for the coming fishing season, and, if necessary, for a further term, to the condition of things existing under the treaty of Washington, without any suggestion of indemnity"—that is, give for nothing for a season rights for which, under the Halifax award, made in accordance with the fishery articles of the treaty of Washington, the American Government were called upon to pay £1,100,000. This may be scarcely business; it is generous almost to the extent of being quixotic, and to do more would be weakness. We are slow to believe that the American Government will refuse to take advantage of what can cost them nothing to accept. Besides, too, the English Government are ready to fall in with Mr. Bayard's capital proposal for the appointment of a mixed commission. As to that suggestion, which was urged in one of a series of valuable letters on this subject in our columns on February 19 last, Lord Salisbury says: "There can be no objection on the part of Her Majesty's Government to the appointment of a mixed commission, whose business it would be to consider and report upon the matters referred to in the three first articles of the draft protocol communicated to the Earl of Clarendon by Mr. Adams in 1866." Some sort of *modus vivendi* could surely be devised by a well-chosen, authoritative commission. Unfortunately, the longer such a question remains open, the more it loses its original simplicity and becomes perplexed by side issues. The more it is discussed the more diplomatists are embarrassed by propositions to which they or their predecessors stand committed. Insensibly the controversy becomes embittered, and retaliation is talked of. We find but too many illustrations of this deterioration in these dispatches. Perhaps the absence of an equitable temper may be detected in communications from this side of the Atlantic and from the Dominion. We, perhaps naturally, are more struck by the acrimony of the attacks by American diplomatists on the Canadian Government. In the very first communication from Mr. Phelps to the late Lord Iddesleigh he denounces, as "a violation of the principles of natural justice as well as those of the common law," the seizure of a fishing vessel for infringing the treaty of 1818 and certain custom-house regulations. He is particularly angry with the requirement by Canadian law that "the burden of proving the illegality shall be on the owner or claimant." That such provisions exist in almost all laws against smuggling is wholly overlooked. It is impossible not to mark the tendency to look at the question as if it were not one of construction of the treaty of 1818. We find reiterated complaints that "a treaty of friendship" is "tortured into a means of offense," that "existing regulations have been construed with a technical strictness and enforced with a severity, in cases of inadvertent and accidental violation where no harm was done, which is both unusual and unnecessary." The House of Representatives took even higher ground, and the Committee on Foreign Affairs reported that the conduct of the local authorities in Canada "has been not only in violation of treaty stipulations and international comity, but, during the fishing season just passed, has been inhuman." The Committee of the Senate on Foreign Relations reported to much the same effect. "It is recommended," they said in their report, "that the President of the United States be invested with the power, and that it be made his duty, whenever he shall be satisfied that unjust, unfair, or unfriendly conduct is practiced by the British Government in respect of our citizens and their property within the ports or waters of British dominions in North America to deny to the subjects of that Government in British North America and their property, or to any class of them, such privileges in the waters and ports of the United States as he may think proper to name, and to suspend in respect of such vessels or classes of vessels, or such property or classes of property of the subjects of such Government the right of entering or being brought within the waters or ports of the United States." The result has been the passing of the retaliatory bill introduced in the Senate, which requires the President, when satisfied that American fishermen have been deprived of any right, or unjustly or vexatiously treated, to retaliate with like restrictions. This development of the controversy does not bode well for

settlement. Politicians, if not diplomats, have lost sight of the originally simple issue, the meaning of a few words. But we do not despair of the matter being, even at this stage, amicably arranged, if only no further time is lost.

[Inclosure 2 in No 501.—From the Times, Friday, April 23, 1887.]

THE CANADIAN FISHERIES QUESTION.

We regret that by inadvertence it was stated in the Times of yesterday in a quotation from an official note of the American minister to Lord Addesleigh, dated December 2, 1886, that Mr. Phelps denounced "the seizure of a fishing vessel for infringing the treaty of 1818 and certain custom-house regulations" as "a violation of the principles of abstract justice, as well as those of the common law." It appears from the note in question that this language referred, not to a seizure of a fishing vessel, but to a provision in the act of the Canadian Parliament of May 22, 1868, which in legal effect casts upon the person accused of an offense the burden of proving his innocence.

No. 318.

Mr. Bayard to Mr. Phelps.

No. 625.]

DEPARTMENT OF STATE,

Washington, May 23, 1887.

SIR: I transmit herewith for your information copies of recent correspondence relative to the case of the *Sarah H. Prior*, one of the fishery cases.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 625.]

Mr. Prior to Mr. Bayard.

Boston, May 13, 1887.

DEAR SIR: I received the inclosed letter to-day and thought best to forward it to you for your perusal and advice. It is in regard to the seine belonging to the schooner *Sarah H. Prior*. The seine was lost off Malpeque and picked up by a British schooner and brought into Malpeque, where the *Prior* was lying. They refused to deliver it up after the captain of the *Prior* had offered to pay salvage on it. I sent you a sworn affidavit last November of the facts in the case. Please let me know when you think it best to enter a claim for damage. Hoping to hear from you at your earliest convenience,

I remain, etc.,

P. H. PRIOR.

P. S.—Please let me know what steps to take in regard to answering the inclosed letter.

P. H. P.

[Inclosure to inclosure 1 in No. 625.]

SOURIS, PRINCE EDWARD ISLAND,

May 2, 1887.

Messrs. P. H. PRIOR & SON,
Boston, Mass.:

SIRS: In October last Captain Wolf of the British schooner *John M. Inglis* delivered to me a wrecked seine which he had picked up at sea. It had the name "*Sarah H. Prior*" printed somewhere about it. As receiver of wrecks for this district I made the necessary advertisement here and at Ottawa, where the head department is, but before I could ascertain who the owner was winter had set in and nothing could be done.

I had the seine nicely salted and secured for the winter. It is now in as good condition as when it was brought here. I have now to ask if you are the real owners of this property, and if so, what disposition you wish me to make of it, whether you wish to pay the salvage, \$25, and some other charges, and have the property shipped to you by steamer or have it kept here until your vessel calls. Something must be done with it soon. I have had it overhauled this spring, and it appears in good condition, except of course the tearing. The purseline, etc., are with it, and it should be worth more than the charges against it.

Will you kindly advise me by return mail what your wishes are in the matter, and oblige,

Yours, etc.

M. J. FOLEY,
Receiver of Wrecks.

[Inclosure 2 in No. 625.]

Mr. Bayard to Mr. Prior.

DEPARTMENT OF STATE,
Washington, May 21, 1887:

SIR: Your letter of the 13th instant in relation to the claim preferred by you because of the alleged refusal of the commander of the Canadian cruiser *Critto* to permit the restoration to your fishing vessel, the *Sarah H. Prior*, of a valuable seine lost at sea and carried into Malpeque by a Canadian vessel, has been received.

As you were informed, by my letter of January 28 last, your original complaint of December 28, 1886, with the accompanying affidavit of the captain and crew of the *Sarah H. Prior* purporting to set forth the facts of the case, was laid before Her Britannic Majesty's minister at this capital. My note and Sir Lionel West's acknowledgment thereof are printed on pages 7 and 8 of the inclosed executive document.

I am now in receipt of Sir Lionel's reply, covering an approved report of a committee of the Dominion privy council, of which a copy is inclosed for your information.

The question appears to have been one of compliance with the usual wreckage and salvage laws, and wholly disconnected from international right and duty.

The sworn statements of the master of the *Sarah H. Prior* as to the refusal of the commander of the *Critto* to permit the restoration of the seine are controverted.

It is alleged that, on the regular course of proceedings for the recovery of his property through the receiver of wrecks being pointed out to Captain McLaughlin, the latter "then said that as the seine was all torn to pieces, he would not bother himself about it."

It appears, from the letter addressed to you, May 2, by Mr. M. J. Foley, receiver of wrecks at Souris, Prince Edward Island, and which you send to me for my information, that the seine in question, after proper care during the winter, is still at your disposal on payment of the adjudged salvage, \$25. This sum, it may be noted, is that which Captain McLaughlin offered in the first instance to pay to the master of the *John Ingalls*.

Inasmuch as the rights of salvage are private rights, to be settled in judicial forums, and as no obstacle now exists, or appears to have at any time existed, to the recovery of your lost property by institution of a suit in the usual form, I am unable to discover any connection between the subject-matter of your complaint and any treaty of the United States with Great Britain, or ground for Government interposition.

Wreck-master Foley's letter is herewith returned to you, a copy being retained on file with your letter.

I am, etc.,

T. F. BAYARD.

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ISLAND,
May 2, 1887.

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No. 321.

Mr. Bayard to Mr. Phelps.

[Extract.]

No. 659 bis.]

DEPARTMENT OF STATE,
Washington, July 12, 1887.

SIR: On March 24 last the Marquis of Salisbury made reply to your note to him of December 3, 1886, and communicated the views of the Canadian government upon the *ad interim* arrangement proposed by the Government of the United States, under date of the 15th of November preceding, for the settlement of the fishery disputes.

This reply of his lordship and the "observations" of the Canadian authorities upon the proposal for an arrangement were conveyed in Mr. White's dispatch of March 30, and received at this Department April 11 last, when it had my immediate consideration.

An answer was prepared forthwith to the note of his lordship, as well as to the "observations," and I now inclose two copies of the latter, which, for convenience and intelligibility, has been printed as a third parallel column to the original proposal and the Canadian "observations."

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 659 bis.]

FISHERIES ARRANGEMENT PROPOSED BY UNITED STATES, WITH "OBSERVATIONS"
OF BRITISH GOVERNMENT AND REPLY OF GOVERNMENT OF UNITED STATES.

Ad interim Arrangement proposed by the United States, Government.

Observations on Mr. Bayard's Memorandum.

Reply to "Observations" on Proposal.

ARTICLE I.

WHEREAS, in the 1st Article of the Convention between the United States and Great Britain, concluded and signed in London on the 20th October, 1818, it was agreed between the High Contracting Parties "that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks, from Mount Joly on the Southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast,

THE most important departure in this Article from the Protocol of 1806 is the interpolation of the stipulation, "that the bays and harbours from which American vessels are in future to be excluded, save for the purposes for which entrance into bays and harbours is permitted by said Article, are hereby agreed to be taken to be such harbours as are 10, or less than 10, miles in width, and the distance of 3 marine miles from such bays and harbours shall be measured from a straight line drawn across the bay or harbour in the part nearest the entrance at the first point where the width does not exceed 10 miles."

This provision would involve a surrender of fishing rights which have always been regarded as the exclusive property of Canada, and would make common fishing grounds of the territorial waters which, by the law of nations, have been invariably

A prior agreement between the two Governments as to the proper definition of the "bays and harbours" from which American fishermen are hereafter to be excluded, would not only facilitate the labors of the proposed Commission, by materially assisting it in defining such bays and harbours, but would give to its action a finality that could not otherwise be expected. The width of ten miles was proposed, not only because it had been followed in Conventions between many other powers, but also because it was deemed reasonable and just in the present case; this Government recognizing the fact that, while it might have claimed a width of six miles as a basis of settlement, fishing within bays and harbours only slightly wider would be confined to areas so narrow as to render it practically valueless and almost necessarily expose the fishermen to constant danger of carrying their opera-

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without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty for ever to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland, here above described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portions so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground;" and was declared that "the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within 3 marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein, of purchasing wood, and obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them;" and whereas differences have arisen in regard to the extent of the above-mentioned renunciation, the Government of the United States and Her Majesty the Queen of Great Britain, being equally desirous of avoiding further misunderstanding, agree to appoint a Mixed Commission for the following purposes, namely:

1. To agree upon and establish by a series of lines the limits which shall separate the exclusive from the common right of fishing on the coast and in the adjacent waters of the British North American Colonies, in conformity with the 1st Article of the Convention of 1818, except that the bays and harbours from which American fishermen are in the future to be excluded, save for the purposes for which

regarded both in Great Britain and the United States as belonging to the adjacent country. In the case, for instance, of the Baie des Chaleurs, a peculiarly well-marked and almost land-locked indentation of the Canadian coast, the 10-mile line would be drawn from points in the heart of Canadian territory, and almost 70 miles distance from the natural entrance or mouth of the bay. This would be done in spite of the fact that, both by Imperial legislation and by judicial interpretation, this bay has been declared to form a part of the territory of Canada. (See Imperial Statute 14 & 15 Vict., cap. 63; and *Mouat v. McPhee*, 5 Sup. Court of Canada Reports, p. 66.)

The Convention with France in 1839, and similar Conventions with other European Powers, form no precedents for the adoption of a 10-mile limit. Those Conventions were doubtless passed with a view to the geographical peculiarities of the coast to which they related. They had for their object the definition of the boundary-lines which, owing to the configuration of the coast, perhaps could not readily be settled by reference to the law of nations, and involve other conditions which are inapplicable to the territorial waters of Canada.

This is shown by the fact that in the French Convention the whole of the oyster-beds in Granville Bay, otherwise called the Bay of Cancale, the entrance of which exceeds 10 miles in width, were regarded as French, and the enjoyment of them is reserved to the local fishermen.

A reference to the action of the United States' Government, and to the admission made by their statesmen in regard [to] bays on the American coasts, strengthens this view; and the case of the English ship "Grange" shows that the Government of the United States in 1793 claimed Delaware Bay as being within territorial waters.

Mr. Bayard contends that the rule which he asks to have set up was adopted by the Empire of the Commission appointed under the Convention of 1853 in the case of the United States'

tions into forbidden waters. A width of more than ten miles would give room for safe fishing more than three miles from either shore, and thus prevent the constant disputes which this Government's proposal, following the Conventions above noticed, was designed to avert.

It was not known to involve the surrender of rights "which had always been regarded as the exclusive property of Canada," or to "make common fishing ground of territorial waters, which, by the law of nations, have been invariably regarded, both in Great Britain and the United States, as belonging to the adjacent country."

The case of the Baie des Chaleurs, the only case cited in this relation, does not appear to sustain the "observations" above quoted. From 1854 until 1866 American fishermen were permitted free access to all territorial waters of the provinces under treaty stipulations. From 1866 until 1870 they enjoyed similar access under special licenses issued by the Canadian Government. In 1870 the license system was discontinued, and under date of May 14 of that year a draft of special instructions to officers in command of the marine police, to protect the in-shore fisheries, was submitted by Mr. P. Mitchell, Minister of Marine and Fisheries of the Dominion, to the Privy Council, and on the same day was approved. In that draft the width of ten miles, as now proposed by this Government, was laid down as the definition of the bays and harbors from which American fishermen were to be excluded; and in respect to the Bay des Chaleurs, it was directed that the officers mentioned should not admit American fishermen "inside of a line drawn 'across at that part of such bay 'where its width does not exceed 'ten miles.'" (See *Sess. Pap.*, 1870; see also Appendix "A" to this Memorandum.) It is true that it was stated that these limits were "for the present to be exceptional." But they are irreconcilable with the supposition that the present proposal of this Government "would involve a surrender of fishing

entrance into the bays and harbours is permitted by said Article, are hereby agreed to be taken to be such bays and harbours as are 10 or less than 10 miles in width, and the distance of 3 marine miles from such bays and harbours shall be measured from a straight line drawn across the bay or harbour, in the part nearest the entrance, at the first point where the width does not exceed 10 miles, the said lines to be regularly numbered, duly described, and also clearly marked on Charts prepared in duplicate for the purpose.

2. To agree upon and establish such Regulations as may be necessary and proper to secure to the fishermen of the United States the privilege of entering bays and harbours for the purpose of shelter and repairing damages therein, of purchasing wood, and of obtaining water, and to agree upon and establish such restrictions as may be necessary to prevent the abuse of the privilege reserved by said Convention to the fishermen of the United States.

3. To agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial and judgment, with as little expense as possible, for the violators of rights and the transgressors of the limits and restrictions which may be hereby adopted:

Provided, however, that the limits, restrictions, and Regulations which may be agreed upon by the said Commission shall not be final, nor have any effect, until so jointly confirmed and declared by the United States and Her Majesty the Queen of Great Britain, either by Treaty or by laws mutually acknowledged.

fishing-schooner "Washington," that it was by him applied to the Bay of Fundy, and that it is for this reason applicable to other Canadian bays.

It is submitted, however, that as one of the headlands of the Bay of Fundy is in the territory of the United States any rules of international law applicable to that bay are not therefore equally applicable to other bays the headlands of which are both within the territory of the same Power.

The second paragraph of the 1st Article does not incorporate the exact language of the Convention of 1818. For instance, the words, "and for no other purpose whatever," should be inserted after the mention of the purposes for which vessels may enter Canadian waters, and after the words, "as may be necessary to prevent," should be inserted, "their taking, drying, or curing fish therein, or in any other manner abusing the privileges reserved," &c.

To make the language conform correctly to the Convention of 1818, several other verbal alterations, which need not be enumerated here, would be necessary.

"rights which have always been regarded as the exclusive property of Canada."

It is, however, to be observed that the instructions above referred to were not enforced, but were, at the request of Her Majesty's Government, amended, by confining the exercise of police jurisdiction to a distance of three miles from the coasts or from bays less than six miles in width. And in respect to the Bay des Chaleurs, it was ordered that American fishermen should not be interfered with unless they were found "within three miles of the shore. (Sess. Pap., Vol. IV, No. 4, 1871; see also Appendix "B.")

The final instructions of 1870, being thus approved and adopted, were reiterated by their re-issue in 1871. Such was the condition of things from the discontinuance of the Canadian license system, in 1870, until, by the Treaty of Washington, American fishermen again had access to the inshore fisheries.

As to the statute cited (14 and 15 Vict., cap. 63, August 7, 1851), it is only necessary to say that it can have no relevance to the present discussion, because it related exclusively to the settlement of disputed boundaries between the two British provinces of Canada and New Brunswick, and had no international aspect whatever; and the same may be said of the case cited, which was wholly domestic in its nature.

Excepting the Bay des Chaleurs, no case is adduced to show why the limit adopted in the Conventions regulating the fisheries in the British Channel and in the North Sea would not be equally applicable to the provinces. The coasts bordering on those waters contain numerous "bays" more than ten miles wide; and no other condition has been suggested to make the limit established by Great Britain and other powers as to those coasts "inapplicable" to the coasts of Canada.

The exception referred to (of the oyster beds in Granville Bay) from the ten-mile rule in the Conventions of 1839 and 1843, between Great Britain and France, is found, upon examination of the latter Convention, to be "estab-

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lished upon special principles;"
and it is believed that the area
of waters so excepted is scarcely
12 miles by 19. In this relation
it may be instructive to note the
terms of the Memorandum pro-
posed for the Foreign Office in
1870, with reference to a Com-
mission to settle the fishing lim-
its on the coast of British North
America. (Sess. Pap., 1871;
see also Appendix 'C.')

The Bay des Chaleurs is 16½
miles wide at the mouth, meas-
ured from Birch Point to Point
Macquerean; contains within its
limits several other well-defined
bays, distinguished by their re-
spective names, and, according
to the "observations," a distance
of almost seventy miles inward
may be traversed before reach-
ing the ten mile line.

The Delaware Bay is 11½ miles
wide at the mouth, 32 miles from
which it narrows into the river
of that name, and has always
been held to be territorial
waters, before and since the
case of the "Grango"—an in-
ternational case,—in 1793, down
to the present time.

In delivering judgment in the
case of the "Washington," the
Umpire considered the headland
theory and pronounced it "new
doctrine." He noted among
other facts that one of the head-
lands of the Bay of Fundy was
in the United States, but did
not place his decision on that
ground. And immediately in
the next case, that of the "Ar-
gus," heard by him and decided
on the same day, he wholly dis-
carded the headland theory and
made an award in favor of the
owners. The "Argus" was
seized, not in the Bay of Fundy,
but because (although more
than three miles from land) she
was found fishing within a line
drawn from headland to head-
land, from Cow Bay to Cape
North, on the northeast side of
Cape Breton Island.

The language of the Conven-
tion of 1818 was not fully incor-
porated in the second paragraph
of the 1st Article of the propo-
sal, because that paragraph re-
lates to regulations for the se-
cure enjoyment of certain priv-
ileges expressly reserved. The
words "and for no other pur-
pose whatever" would in this

relation be surplusage. There are no restrictions to prevent the abuse of the privileges referred to would necessarily be such as to prevent the "taking, drying, and curing" of fish. For these reasons the words referred to were not inserted, nor is the usefulness of their insertion apparent.

Ad Interim Arrangement proposed by the United States' Government.

ARTICLE II.

Pending a definitive arrangement on the subject, Her Britannic Majesty's Government agree to instruct the proper Colonial and other British officers to abstain from seizing or molesting fishing vessels of the United States unless they are found within 3 marine miles of any of the coasts, bays, creeks, and harbours of Her Britannic Majesty's dominions in America, there fishing, or to have been fishing or preparing to fish within those limits, not included within the limits within which, under the Treaty of 1818, the fishermen of the United States continue to retain a common right of fishery with Her Britannic Majesty's subjects.

Observations on Mr. Bayard's Memorandum.

This Article would suspend the operation of the Statutes of Great Britain and of Canada, and of the provinces now constituting Canada, not only as to the various offenses connected with fishing, but as to customs, harbours, and shipping, and would give to the fishing vessels of the United States privileges in Canadian ports which are not enjoyed by vessels of any other class, or of any other nation. Such vessels would, for example, be free from the duty of reporting at the Customs on entering a Canadian harbour, and no safeguard could be adopted to prevent infraction of the Customs Laws by any vessel asserting the character of a fishing vessel of the United States.

Instead of allowing to such vessels merely the restricted privileges reserved by the Convention of 1818, it would give them greater privileges than are enjoyed at the present time by any vessels in any part of the world.

Reply to "Observations" on Proposal.

ARTICLE II.

The objections to this Article will, it is believed, be removed by a reference to Article VI, in which "the United States agrees to admonish its fishermen to comply" with Canadian customs regulations and to coöperate in securing their enforcement. Obedience by American fishing vessels to Canadian laws was believed and certainly was intended to be secured by this article. By the consolidation, however, of Articles II and VI the criticism would be fully met.

Ad Interim Arrangement proposed by the United States' Government.

ARTICLE III.

For the purpose of executing Article I of the Convention of 1818, the Government of the United States and the Government of Her Britannic Majesty hereby agree to send each to the Gulf of St. Lawrence a national vessel, and also one each to cruise during the fishing season on the southern coasts of Nova Scotia. Whenever a fishing vessel of the United States shall be seized for

Observations on Mr. Bayard's Memorandum.

This Article would deprive the Courts in Canada of their jurisdiction, and would vest that jurisdiction in a Tribunal not bound by legal principles, but clothed with supreme authority to decide on most important rights of the Canadian people.

It would submit such rights to the adjudication of two naval officers, one of them belonging to a foreign country, who, if they

Reply to "Observations" on Proposal.

ARTICLE III.

As the chief object of this Article is not unacceptable to Her Majesty's Government—*i. e.*, the establishment of a joint system of inquiry by naval officers of the two countries in the first instance—it is believed that the objections suggested may be removed by an enlargement of the list of enumerated offenses so as to include infractions of the regulations which may be estab-

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ARTICLE II.

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violating the provisions of the
aforesaid Convention by fishing
or preparing to fish within 3 ma-
rine miles of any of the coasts,
bays, creeks, and harbours of
Her Britannic Majesty's domi-
nions included within the limits
within which fishing is by the
terms of the said Convention re-
nounced, such vessel shall forth-
with be reported to the officer in
command of one of the said na-
tional vessels, who, in conjunc-
tion with the officer in command
of another of said vessels of dif-
ferent nationality, shall hear and
examine into the facts of the case.
Should the said commanding of-
ficers be of opinion that the
charge is not sustained, the ves-
sel shall be released. But if they
should be of opinion that the ves-
sel should be subjected to a judi-
cial examination, she shall forth-
with be sent for trial before the
Vice-Admiralty Court at Hal-
ifax. If, however, the said com-
manding officers should differ in
opinion, they shall name some
third person to act as Umpire
between them, and should they
be unable to agree upon the name
of such third person, they shall
each name a person, and it shall
be determined by lot which of
the two persons so named shall
be the Umpire.

should disagree and be unable to
choose an Umpire must refer the
final decision of the great inter-
ests which might be at stake to
some person chosen by lot.

If a vessel charged with infrac-
tion of Canadian fishing rights
should be thought worthy of be-
ing subjected to a "judicial ex-
amination," she would be sent to
the Vice-Admiralty Court at Hal-
ifax, but there would be no re-
dress, no appeal, and no refer-
ence to any Tribunal if the na-
val officers should think proper
to release her.

It should, however, be ob-
served that the limitation in the
second sentence of this Article
of the violations of the Conven-
tion which are to render a vessel
liable to seizure could not be ac-
cepted by Her Majesty's Gov-
ernment.

For these reasons, the Article
in the form proposed is inadmis-
sible, but Her Majesty's Govern-
ment are not indisposed to agree
to the principle of a joint inquiry
by the naval officers of the two
countries in the first instance,
the vessel to be sent for trial at
Halifax if the naval officers do
not agree that she should be re-
leased.

They fear, however, that there
would be serious practical diffi-
culties in giving effect to this
arrangement, owing to the great
length of coast, and the delays,
which must in consequence be
frequent, in securing the pres-
ence at the same time and place
of the naval officers of both
Powers.

lished by the Commission. And
the treatment to be awarded to
such infractions should also be
considered by the same body.

*Ad interim Arrangement pro-
posed by the United States' Gov-
ernment.*

*Observations on Mr. Bayard's
Memorandum.*

*Reply to "Observations" on Pro-
posal.*

*Observations" on Pro-
posal.*

ARTICLE IV.

The fishing vessels of the
United States shall have in the
established ports of entry of Her
Britannic Majesty's dominions
in America the same commercial
privileges as other vessels of the
United States, including the pur-
chase of bait and other supplies;
and such privileges shall be ex-
ercised subject to the same Rules
and Regulations and payment of
the same port charges as are pro-

This Article is also open to
grave objection. It proposes to
give the United States fishing
vessels the same commercial
privileges as those to which
other vessels of the United
States are entitled, although
such privileges are expressly re-
nounced by the Convention of
1818 on behalf of fishing vessels,
which were thereafter to be de-
nied the right of access to Cana-

ARTICLE IV.

The Treaty of 1818 related
solely to Fisheries. It was not
a commercial Convention, and
no commercial privileges were
renounced by it. It contains no
reference to "ports," of which,
it is believed, the only ones then
existing were Halifax, in Nova
Scotia, and possibly one or two
more in the other provinces; and
these ports were not until long
afterwards opened, by recipro-

ARTICLE III.

chief object of this Ar-
unacceptable to Her
government—i. e., the
want of a joint system
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scribed for other vessels of the United States.

dian waters for any purpose whatever, except those of shelter, repairs, and the purchase of wood and water. It has frequently been pointed out that an attempt was made, during the negotiations which preceded the Convention of 1818, to obtain for the fishermen of the United States the right of obtaining bait in Canadian waters, and that this attempt was successfully resisted. In spite of this fact, it is proposed, under this Article, to declare that the Convention of 1818 gave that privilege, as well as the privilege of purchasing other supplies in the harbours of the Dominion.

cal commercial regulations, to vessels of the United States engaged in trading.

The right to "obtain" (i.e., take, or fish for) bait, was not insisted upon by the American negotiators, and was doubtless omitted from the Treaty, because, as it would have permitted fishing for that purpose, it was a partial reassertion of the right to fish within the limits as to which the right to take fish had already been expressly renounced.

The purchase of bait and other supplies by the American fishermen in the established ports of entry of Canada, as proposed in Article IV, is not regarded as inconsistent with any of the provisions of the Treaty of 1818; and in this relation it is pertinent to note the declaration of the Earl of Kimberley, in his letter of February 16, 1871, to Lord Lisgar, that "the exclusion of American fishermen from resorting to Canadian ports, except for the purpose of shelter, and of repairing damages therein, purchasing wood, and obtaining water, might be warranted by the letter of the Treaty of 1818, and by the terms of the Imperial Act 50, Geo. III, Chap. 38, but Her Majesty's Government feel bound to state that it seems to them an extreme measure inconsistent with the general policy of the Empire, and they were disposed to concede this point to the United States Government under such restrictions as may be necessary to prevent smuggling, and to guard against any substantial invasion of the exclusive rights of fishing which may be reserved to British subjects."

It is not contended that the right to purchase bait and supplies, or any other privilege of trade, was given by the Treaty of 1818. Neither was any such right or privilege stipulated for or given by the Treaty of 1854, nor by the Treaty of Washington; and the Halifax Commission decided in 1877, that it was not "competent" for that tribunal "to award compensation for commercial intercourse between the two countries, nor for purchasing bait, ice, sup-

regulations, to the United States as trading.

to "obtain" (i. e. fish for) bait, was not by the American, and was doubtless from the Treaty, but would have permitted for that purpose, it is a reassertion of the right within the limits as the right to take fish has been expressly re-

phase of bait and other by the American fish- the established ports

Canada, as proposed IV, is not regarded as with any of the pre- the Treaty of 1818; relation it is perti- to the declaration of f Kimberly, in his let- tary 16, 1871, to Lord at "the exclusion of fishermen from re- Canadian ports, ex- the purpose of shelter, repairing damages, purchasing wood, and water, might be war- the letter of the of 1818, and by the the Imperial Act 59,

Chap. 38, but Her Government feel state that it seems an extreme measure with the general the Empire, and they need to concede this the United States ent under such re- as may be necessary smuggling, and to met any substantial of the exclusive fishing which may be British subjects."

contended that the base bait and an- other privilege of ven by the Treaty ther was any such lego stipulated for the Treaty of 1854, Treaty of Washing- Halifax Commis- in 1877, that it was out "for that tribu- compensation for intercourse be- two countries, nor ing bait, ice, sup-

"plies, &c., nor for permission "to transship cargoes in British "waters." And yet this Gov- ernment is not aware that, dur- ing the existence of the Treaty of 1854 or the Treaty of Wash- ington, question was ever made of the right of American fisher- men to purchase bait and other supplies in Canadian ports, or that such privileges were ever denied them.

Ad interim Arrangement pro- posed by the United States' Gov- ernment.

ARTICLE V.

The Government of Her Brit- annic Majesty agree to release all United States' fishing vessels now under seizure for failing to report at custom-houses when seeking shelter, repairs, or sup- plies, and to refund all fines ex- acted for such failure to report. And the High Contracting Par- ties agree to appoint a Joint Commission to ascertain the amount of damage caused to American fishermen during the year 1886 by seizure and deten- tion in violation of the Treaty of 1818, said Commission to make awards therefor to the parties injured.

Ad interim Arrangement pro- posed by the United States' Gov- ernment.

ARTICLE VI.

The Government of the United States and the Government of Her Britannic Majesty agree to give concurrent notification and warning of Canadian Customs Regulations, and the United States agrees to admonish its fishermen to comply with them and co-operate in securing their enforcement.

Observations on Mr. Bayard's Memorandum.

By this Article it is proposed to give retrospective effect to the unjustified interpretation sought to be placed on the Convention by the last preceding Article.

It is assumed, without discus- sion, that all United States' fish- ing vessels which have been seized since the expiration of the Treaty of Washington have been illegally seized, leaving, as the only question still open for con- sideration, the amount of dam- ages for which the Canadian authorities are liable.

Such a proposal appears to Her Majesty's Government quite in- admissible.

Observations on Mr. Bayard's Memorandum.

This Article calls for no re- mark.

APPENDIX A.

"In such capacity, your jurisdiction must be strictly confined within the limit of 'three marine miles of any of the coasts, bays, creeks or harbors,' of Canada, with respect to any act on you may take against American fishing vessels and United States citizens engaged in fishing. Where any of the bays, creeks or harbors shall not exceed ten geographical miles in width, you will consider that the line of demarcation extends from headland to headland, either at the entrance to such bay, creek or harbor, or from and between given points on both sides thereof, at any place nearest the mouth where the shores are less than ten miles apart; and may exclude foreign fishermen and fishing vessels therefrom, or seize if found within three marine miles of the coast.

"*Jurisdiction.*—The limits within which you will, if necessary, exercise the power to exclude United States fishermen, or to detain American fishing vessels or boats, are for the present to be exceptional. Difficulties have arisen in former times with respect to the question, whether the exclusive limits

should be measured on lines drawn parallel everywhere to the coast and describing its sinuosities, or on lines produced from headland to headland across the entrances of bays, creeks or harbors. Her Majesty's Government are clearly of opinion, that by the Convention of 1818, the United States have renounced the right of fishing not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede, nor for the present to enforce any rights in this respect, which are in their nature open to any serious question. Until further instructed, therefore, you will not interfere with any American fishermen unless found within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or creek which is less than ten geographical miles in width. In the case of any other bay, as the Bay de Chaleurs, for example, you will not admit any United States fishing vessel or boat, or any American fishermen, inside of a line drawn across at that part of such bay where its width does not exceed ten miles." (Session Papers, Vol. III, No. 8, 1870.)

APPENDIX B.

"In such capacity, your jurisdiction must be strictly confined within the limit of 'three marine miles of any of the coasts, bays, creeks or harbors' of Canada, with respect to any action you may take against American fishing vessels and United States citizens engaged in fishing. Where any of the bays, creeks, or harbors shall not exceed six geographical miles in width, you will consider that the line of demarcation extends from headland to headland, either at the entrance to such bay, creek, or harbor, or from and between given points on both sides thereof, at any place nearest the mouth where the shores are less than six miles apart; and may exclude foreign fishermen and fishing vessels therefrom, or seize if found within three marine miles of the coast.

"*Jurisdiction.*—The limits within which you will, if necessary, exercise the power to exclude United States fishermen, or to detain American fishing vessels or boats, are for the present to be exceptional. Difficulties have arisen in former times with respect to the question, whether the exclusive limits should be measured on lines drawn parallel everywhere to the coast and describing its sinuosities, or on lines produced from headland to headland across the entrances of bays, creeks or harbors. Her Majesty's Government are clearly of opinion that, by the Convention of 1818, the United States have renounced the right of fishing not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede, nor for the present to enforce any rights in this respect which are in their nature open to any serious question. Until further instructed, therefore, you will not interfere with any American fishermen unless found within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or a creek which, though in parts more than six miles wide, is less than six geographical miles in width at its mouth. In the case of any other bay, as the Bay des Chaleurs for example, you will not interfere with any United States fishing vessel or boat, or any American fishermen, unless they are found within three miles of the shore.

"*Action.*—You will accost every United States vessel or boat actually within three marine miles of the shore along any other part of the coast except Labrador and around the Magdalen Islands, or within three marine miles of the entrance of any bay, harbor, or creek which is less than six geographical miles in width, or inside of a line drawn across any part of such bay, harbor, or creek at points nearest to the mouth thereof not wider apart than six geographical miles, and if either fishing, preparing to fish, or having obviously fished within the exclusive limits, you will, in accordance with the above-recited acts, seize at once any vessel detected in violating the law, and send or take her into port for condemnation; but you are not to do so unless it is evident, and can be clearly proved, that the offence of fishing has been committed, and that the vessel is captured within the prohibited limits." (Session Papers, Vol. IV, No. 4, 1871.)

APPENDIX C.—*The secretary of state for the colonies to the governor-general.*

DOWNING STREET, October 10, 1870.

SIR: I inclose a copy of a memorandum, which I have requested Lord Granville to transmit to Sir E. Thornton, with instructions to communicate with you before addressing himself to the Government of United States on the subject to which the memorandum relates.

The object of Her Majesty's Government is, as you will observe, to give effect to the wishes of your Government, by appointing a joint commission, on which Great Britain, the United States, and Canada are to be represented, with the object of inquiring what ought to be the geographical limits of the exclusive fisheries of the British North American colonies. In accordance with the understood desire of your advisers it is proposed that the inquiry should be held in America.

The proposal contained in the last paragraph is made with a view to avoid diplomatic difficulties, which might otherwise attend the negotiation.

I have, etc.,

KIMBERLEY.

Governor-General the Right Hon. Sir JOHN YOUNG, G. C. B., G. C. M. G.

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Memorandum for foreign office respecting a commission to settle limits of the right of exclusive fishery on the coast of British North America.

"A convention made between Great Britain and the United States, on the 20th October, 1818, after acceding to American fishermen certain rights to be exercised on part of the coasts of Newfoundland and Labrador, proceeded as follows:

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above limits."

"The right of Great Britain to exclude American fishermen from waters within three miles of the coast is unambiguous and, it is believed, uncontested. But there appears to be some doubt what are the waters described as within three miles of bays, creeks, and harbors. When a bay is less than six miles broad, its waters are within three miles limit, and therefore clearly within the meaning of the treaty; but when it is more than that breadth, the question arises whether it is a bay of Her Britannic Majesty's dominions.

"This is a question which has to be considered in each particular case with regard to international law and usage. When such a bay, etc., is not a bay of Her Majesty's dominions, the American fishermen will be entitled to fish in it, except within three miles of the 'coast'; 'when it is a bay of Her Majesty's dominions,' they will not be permitted to fish within three miles of it; that is to say (it is presumed), within three miles of a line drawn from headland to headland.

"It is desirable that the British and American Governments should come to a clear understanding in the case of each bay, creek, or harbor what are the precise limits of the exclusive rights of Great Britain, and should define those limits in such a way as to be incapable of dispute, either by reference to the bearings of certain headland, or other objects on shore, or by laying the lines down in a map or chart.

"With this object it is proposed that a commission should be appointed, to be composed of representatives of Great Britain, the United States, and Canada, to hold its sittings in America, and to report to the British and American Governments their opinion either as to the exact geographical limits to which the renunciation above quoted applies, or, if this found impracticable, to suggest some line of delineation along the whole coast which, though not in exact conformity with the words of the convention, may appear to them consistent in substance with the just rights of the two nations, and calculated to remove occasion for further controversy.

"It is not intended that the result of the commission should necessarily be embodied in a new convention between the two countries but if an agreement can be arrived at, it may be sufficient that it should be in the form of an understanding between the two Governments as to the practical interpretation which shall be given to the convention of 1818." (Session Papers, 1871.)

No. 322.

Mr. Phelps to Mr. Bayard.

[Extract.]

LEGATION OF THE UNITED STATES,
London, August 2, 1887. (Received August 13.)

SIR: I have the honor to acknowledge the receipt of your instruction of the 12th ultimo, inclosing two copies of your "proposal for an arrangement," with the Canadian "observations" and your reply thereto printed in parallel columns, and to inform you that I have communicated a copy of the same to Lord Salisbury.

I have, etc.

E. J. PHELPS.

No. 325.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, December 11, 1886.

SIR: I have the honor to acknowledge your note* of the 7th instant, with which you communicate, by the direction of the Earl of Iddesleigh, a copy of the report of a committee of the privy council of Canada,

* Printed, p. 491 Foreign Relations, 1886.

approved October 26 last, wherein the regret of the Canadian Government is expressed for the action of Captain Quigley, of the Canadian Government cruiser *Terror*, in lowering the flag of the United States fishing schooner *Marion Grimes* whilst under detention by the customs authorities, in the harbor of Shelburne, Nova Scotia, on October 11 last.

Before receiving this communication I had instructed the United States minister at London to make representation of this regrettable occurrence to Her Majesty's minister for foreign affairs, and desire now to express my satisfaction at the voluntary action of the Canadian authorities, which, it seems, was taken in October last, but of which I had no intimation until your note of the 7th instant was received.

I have, etc.,

T. F. BAYARD.

No. 327.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, December 24, 1886. (Received December 27.)

SIR: With reference to your note* of the 11th ultimo, I have the honor to inform you that I am requested by the Earl of Iddesleigh to acquaint you that Her Majesty's Government have desired the Canadian Government to furnish them with a report on the circumstances attending the alleged inhospitable treatment of United States fishing schooners *Laura Sayward* and *Jennie Seavers* by the Canadian authorities.

I have, etc.,

L. S. SACKVILLE WEST.

No. 328.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, January 6, 1887. (Received January 7.)

SIR: With reference to your letters† of the 19th and 20th October, I have the honor to transmit to you herewith reports from the Government of Canada relative to the cases of the United States fishing vessels *Pearl Nelson* and *Everett Steele*, which I have been instructed by the Earl of Iddesleigh to communicate to the United States Government.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

The Marquis of Lansdowne to Mr. Stanhope.

GOVERNMENT HOUSE, OTTAWA, November 29, 1886.

SIR: I have the honor to transmit herewith a copy of an approved minute of the privy council of Canada, furnishing the report asked for in your telegraphic message

* Printed, p. 425 Foreign Relations, 1886.

† Printed p. 421 Foreign Relations, 1886.

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of the 6th November, with reference to the detention of the American schooner *Everett Steele*, at Shelburne, Nova Scotia, for an infraction of the customs regulations of the Dominion.

I have, etc.,

LANSDOWNE.

[Inclosure 2.]

Report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general in council, on the 18th November, 1886.

The committee of the privy council are in receipt of a telegram from the right honorable the secretary of state for the colonies, in the words:

"United States Government protest against proceedings of Canadian authorities in the case of *Pearl Nelson* and *Everett Steele*, said to have put into Arichat and Shelburne, respectively, for purposes sanctioned by convention. Particulars by post. Send report soon as possible."

The minister of marine and fisheries, to whom the telegram was referred, submits that the schooner *Everett Steele* appears from the report of the collector of customs at Shelburne to have been at that port on the 25th March last, and sailed without reporting. On her return to Shelburne in September she was detained by the collector of customs for an infraction of the customs law.

The captain having assured the collector that he had been misled by the deputy harbor-master, who informed him his vessel could remain in port for twenty-four hours without entering, and that he had no intention of violating the customs regulations, this statement was reported to the minister of customs at Ottawa, when the vessel was at once allowed to proceed to sea, and that no evidence is given of any desire or intention of denying to the captain of the *Everett Steele* any treaty privileges he was entitled to enjoy.

The committee, concurring in the above, respectfully recommend that your excellency be moved to transmit a copy of this minute, if approved, to the right honorable the secretary of state for the colonies.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure 3.]

The Marquis of Lansdowne to Mr. Stanhope.

GOVERNMENT HOUSE, OTTAWA, November 29, 1886.

SIR: With reference to your telegraphic message of the 6th instant, asking to be furnished with a report in the case of the *Pearl Nelson* and *Everett Steele*, I have the honor to transmit herewith a copy of an approved minute of the privy council of Canada, embodying a report of my minister of marine and fisheries, to which is appended a copy of the correspondence which has passed between the commissioner of customs for Canada and the United States consul-general at Halifax relating to the case of the American schooner *Pearl Nelson*.

I have, etc.,

LANSDOWNE.

[Inclosure 4.]

Report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general in council, on the 18th November, 1886.

The committee of the privy council are in receipt of a telegram from the right honorable the secretary of state for the colonies, in the words:

"United States Government protest against proceedings of Canadian authorities in case of *Pearl Nelson* and *Everett Steele*, said to have put into Arichat and Shelburne, respectively, for purposes sanctioned by convention. Particulars by post. Send report soon as possible."

The minister of marine and fisheries, to whom the telegram was referred, submits a copy of a letter addressed by the commissioner of customs for Canada to the consul-general of the United States at Halifax, and also a copy of Mr. Phelan's reply thereto.

The minister submits that it is clear, from Captain Kemp's affidavit, that he was guilty of an infraction of the customs regulations in allowing men to land from his vessel before she had been reported, and the minister of customs having favorably

considered Captain Kempt's representation as to his ignorance of the customs regulations requiring that vessels should be reported before landing either men or cargo therefrom, has remitted the fine of \$200 which had been imposed in the case of the American schooner *Pearl Nelson*.

The minister further submits that it would appear from the collector of customs' report that his remark that "he would seize the vessel" had reference solely to her violation of the customs law, and that no evidence is given of any desire or intention of denying to the captain of the *Pearl Nelson* any treaty privileges he was entitled to enjoy.

The committee, concurring in the above, respectfully recommend that your excellency be moved to transmit a copy of this minute, if approved, to the right honorable the secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council, Canada.

[Inclosure 5.]

Mr. Parmelee to Mr. Phelan.

OTTAWA, October 22, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, re seizure of the American schooner *Pearl Nelson* for an infraction of the customs laws, etc.

The commissioner of customs' report in connection with this matter, which has been approved by the minister of customs, reads as follows:

"The undersigned, having examined this case, has come to the conclusion that the captain of the vessel did violate the provisions of sections 25 and 180 of 'the customs act, 1883,' by landing a number of his crew before going to the custom-house to report; that his plea of having come into port solely from stress of weather is inconsistent with the circumstances, and is denied by the collector of customs, who reports that 'the night was one of the finest and most moderate experienced there this summer,' and that 'his crew were landed only in the morning.' That even if the 'stress of weather' plea was sustained by facts it would not exempt him from the legal requirement of reporting his vessel before 'breaking bulk' or landing his crew, and it is evident that there was nothing to hinder his reporting, as the crew appear to have had no difficulty in handling the vessel's boats; that it was very easy for the crew or any of them to have taken valuable contraband goods ashore on their persons in the absence of any customs officer at the landing-place. Inasmuch, however, as there is no charge of actual smuggling preferred against the vessel, the undersigned respectfully recommends that the deposit of \$200 be refunded, deducting therefrom any expenses incurred.

"J. JOHNSON."

I trust the above may be considered a satisfactory answer to your letter referred to. I have, etc.,

W. G. PARMELEE,
Assistant Commissioner.

[Inclosure 6.]

Mr. Phelan to Mr. Parmelee.

HALIFAX, November 2, 1886.

SIR: I have the honor to acknowledge the receipt of your communication of the 22d ultimo, concerning the action of the customs department of Canada in the case of the American schooner *Pearl Nelson*, and to say I was much pleased at the decision arrived at in that case. I have informed the Government of the United States that the fine in the case referred to was ordered to be refunded.

I have also to say that the Department of State, in acknowledging the receipt of a dispatch from me setting forth that you had placed all the papers in the cases of the American schooners *Crittenden* and *Holbrook* in my hands for perusal, said: "The attention of Mr. Parmelee in referring the matter to you is appreciated. It shows proper spirit."

I trust the department of customs will pass on the other cases as soon as possible. I have, etc.

M. H. PHELAN,
Consul-General.

No. 329.

Sir L. S. Sackville West to Mr. Bayard.

BRITISH LEGATION,

Washington, January 19, 1887. (Received January 21.)

SIR: With reference to your note* of the 23d of September last, I have the honor inclose to you herewith a copy of a dispatch from the governor-general of Canada to Her Majesty's secretary of state for the colonies, inclosing a report from his Government on the case of the United States fishing vessel *Crittenden*.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

Lord Lansdowne to Mr. Stanhope.

CANADA, GOVERNMENT HOUSE,

Ottawa December 4, 1886.

SIR: In reply to your dispatch of the 12th of October last, transmitting a copy of a letter with its inclosure from the foreign office, requesting to be furnished with a report in the case of the United States fishing vessel *Crittenden*, I have the honor to forward herewith a copy of an approved minute of the privy council of Canada embodying a report of my minister of marine and fisheries, to which is appended a statement of the customs officer at Steep Creek on the subject.

I have, etc.,

LANSDOWNE.

[Inclosure 2.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council, on the 16th November, 1886.

The committee of the privy council have had under consideration a dispatch, dated 12th October, 1886, from the secretary of state for the colonies, transmitting a copy of a letter from Mr. Bayard, United States Secretary of State, to the British minister at Washington, calling attention to an alleged denial of the rights guaranteed by the convention of 1818 in the case of the American fishing schooner *Crittenden* by the customs officer at Steep Creek, in the Straits of Canso, Nova Scotia.

The minister of marine and fisheries, to whom the dispatch and inclosure were referred, submits a statement of the customs officer at Steep Creek, and observes that the captain of the *Crittenden* violated the customs laws by neglecting to enter his vessel, as requested by the customs officer, and landing and shipping a man clearly exceeded any treaty provision he was entitled to avail himself of.

It would appear that the remark made by the customs officer "that he would seize the vessel" had reference solely to the captain's violation of the customs regulations, and, the minister submits, cannot be construed into a denial of any treaty privileges the master was entitled to enjoy.

The committee, concurring in the above, respectfully recommended that your excellency be moved to inform the right honorable the secretary of state for the colonies in the sense of the report of the ministry of marine and fisheries.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure 3.]

Mr. Carr to the Minister of Marine and Fisheries.

STEEP CREEK, November 1, 1886.

SIR: Yours of the 28th of October came to hand to-day, and, in reply, can state to you that part of the crew of the schooner *Crittenden* came on shore at Steep Creek and landed their barrels and fill them with water. I went direct to the men who

were filling the barrels, and told them to come and enter before taking wood and water. They said they would not enter or make any report. I told them that I would seize the schooner *Crittenden* for violating the customs laws. They said they would risk that, as the schooner was now out of the way about 3 miles from my station down the straits, and it was impossible for me to board the vessel. They also landed a man the same day with his effects, and on their return from Gloucester to the Bay St. Lawrence they shipped a man. Was looking out for the vessel, but could not catch her. I reported the case to the collector of customs at Port Hawkesbury, and on the schooner *Crittenden's* return from the Bay St. Lawrence she was seized, and Collector Bourinot got the affidavits of the captain of the said schooner and also of some of the crew, which he stated to the department. I was in the office at the time when Collector Bourinot received a telegram from the department to release the schooner *Crittenden* on the deposit of \$400.

I remain, etc.,

JAMES H. CARR,
Pro Collector.

No. 330.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, January 27, 1887.

SIR: I have the honor to inclose a copy of an affidavit of the captain and two members of the crew of the schooner *Sarah H. Prior*, of Boston, stating the refusal of the captain of the Canadian revenue cutter *Critic* to permit the restoration to the former vessel, in the port of Malpeque, Prince Edward Island, of her large seine, which she had lost at sea, and which had been found by the captain of a Canadian vessel, who offered to return the seine to the *Prior*, but was prevented from doing so by the captain of the *Critic*.

This act of prevention, the reason for which is not disclosed, practically disabled the *Prior*, and she was compelled to return home without having completed her voyage, and in debt.

I have the honor to ask that Her Majesty's Government cause investigation of this case to be made.

I have, etc.,

T. F. BAYARD.

[Inclosure 1.]

Mr. Prior to Mr. Bayard.

BOSTON, December 23, 1886.

DEAR SIR: I wrote to Senator W. P. Frye, setting forth in my letter the facts contained in the affidavit inclosed. He wrote me to have it sworn to and to send it to you, which I have done. Will you please let me know what course is best to pursue in regard to it, whether to enter a claim or not? I think it is a clear, strong case, and the claim would be a just one, and will be pleased to receive your advice in the matter.

Yours, very truly,

P. H. PRIOR.

[Inclosure 2.]

Affidavit of the captain and crew of the schooner Sarah H. Prior.

On this 28th day of December, A. D. 1886, personally appeared before me Captain Thomas McLaughlin, master, and George F. Little and Charles Finnegan, two of the crew of the schooner *Sarah H. Prior*, of Boston, and being duly sworn, signed and made oath to the following statement of facts:

On September 10, 1886, the schooner *Sarah H. Prior*, while running for Malpeque, Prince Edward Island, and about seven miles from that port, lost her large seine.

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H. CARR,
Pro Collector.

Four days afterwards the schooner *John Ingalls*, of Halifax, N. S., Captain Wolfe, came into Malpeque and had the seine on board, which she had picked up at sea. Captain Wolfe offered to deliver the seine to Captain McLaughlin in consideration of twenty-five dollars, which offer the latter accepted and paid him the money. The Canadian revenue cutter *Critic*, Captain McLearn, was lying at Malpeque at the time, and Captain McLaughlin went to see him, to ascertain if there would be any trouble in delivering the seine. Captain McLearn would not allow the captain of the *John Ingalls* to give up the seine, so the latter returned the twenty-five dollars to Captain McLaughlin.

The schooner *Sarah H. Prior* had two seines, one large and one small size. It was the large one which she lost and the schooner *John Ingalls* picked up. She had to leave Malpeque without it, and consequently came home with a broken voyage and in debt.

THOS. McLAUGHLIN.
GEORGE F. LITTLE.
CHARLES FINNEGAN.

SUFFOLK, 48 :

BOSTON, December 28, 1886.

Personally appeared before me Thomas McLaughlin, George F. Little, and Charles Finnegan, who signed and made oath that the foregoing statement was true.

[SEAL.]

CHARLES W. HALLSTRAIN,
Notary Public.

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F. BAYARD.

No. 331.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, January 28, 1887. (Received January 29.)

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, and to inform you that I have submitted the case of the American schooner *Sarah H. Prior* to Her Majesty's Government for investigation, as requested by you.

I have, etc.,

L. S. SACKVILLE WEST.

No. 332.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, January 28, 1887. (Received January 29.)

SIR: With reference to your note* of the 20th of May last, I have the honor to transmit to you herewith copy of a report by the minister of justice of the Dominion of Canada upon the seizure of the American fishing vessel *David J. Adams*, which I am instructed by Her Majesty's principal secretary of state for foreign affairs to communicate to the United States Government.

I have, etc.,

L. S. SACKVILLE WEST.

P. H. PRIOR.

[Inclosure 1.]

The Marquis of Lansdowne to Mr. Stanhope.

GOVERNMENT HOUSE, OTTAWA,
November 9, 1886. (Received November 22.)

SIR: With reference to Earl Granville's dispatch of the 24th June last, respecting the fisheries question and inclosing copies of two letters from the foreign office and one from the United States minister in London, addressed to the secretary of state

* Printed page 377, Foreign Relations, 1886.

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for foreign affairs, I have the honor to transmit herewith a copy of an approved minute of the privy council of Canada concurring in a report of the minister of justice dealing with the points raised by Mr. Phelps in his note of the 2d June last on the subject of the seizure of the United States fishing vessel *David J. Adams*, near Digby, Nova Scotia.

I have, etc.,

LANSDOWNE.

[Inclosure 2.]

Certified copy of a report of a committee of the honorable the privy council for Canada, approved by his excellency the administrator of the Government in council on the 2d November, 1886.

The committee of the privy council have had under consideration a dispatch dated 24th June, 1886, from the right honorable the secretary of state for the colonies respecting the fisheries question, and inclosing copies of letters on the subject from the foreign office to the colonial office, and of one from Mr. Phelps to the secretary of state for foreign affairs.

The minister of justice, to whom the dispatch and inclosures were referred, submits a report thereon herewith.

The committee concur in the said report, and advise that your excellency be moved to transmit a copy thereof, if approved, to the right honorable the secretary of state for the colonies.

All of which is submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council, Canada.

[Inclosure 3.]

Report of the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA,
July 22, 1886.

To his Excellency the Administrator of the Government in council:

With reference to the dispatch of the 24th June last from the secretary of state for the colonies to your excellency, respecting the fisheries question, and inclosing copies of letters on the subject from the foreign office to the colonial office and of one from Mr. Phelps to the secretary of state for foreign affairs, the undersigned has the honor to report as follows:

The letter of Mr. Phelps seems designed to present to Earl Rosebery the case of the *David J. Adams*, the fishing vessel seized a short time ago near Digby, in the province of Nova Scotia.

Mr. Phelps intimates that he has received from his Government a copy of the report of the consul-general of the United States at Halifax, giving full details and depositions relating to the seizure, and that that report and the evidence annexed to it, appear fully to sustain the points which he had submitted to Earl Rosebery at an interview which he had had a short time before the date of his letter.

The report of the consul-general and the depositions referred to seem not to have been presented to Earl Rosebery, and their contents can only be inferred from the statements made in Mr. Phelps's letter.

These statements appear to be based on the assertions made by the persons interested in the vessel by way of defense against the complaint under which she was seized, but can not be regarded as presenting a full or accurate representation of the case. The undersigned submits the facts in regard to this vessel as they are alleged by those on whose testimony the Government of Canada can rely to sustain the seizure and detention.

THE OFFENSE AS TO THE TREATY AND FISHERY LAWS.

The *David J. Adams* was a United States fishing vessel. Whether, as alleged in her behalf, her occupation was deep-sea fishing or not, and whether, as suggested, she had not been engaged, nor was intended to be engaged, in fishing in any limit prescribed by the treaty of 1818 or not, are questions which do not, in the opinion of the undersigned, affect the validity of the seizure, and of the proceedings subsequent thereto, for reasons which will be hereafter stated, but in so far as they may be deemed

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LANSDOWNE.

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J. MCGEE,
Minister, Canada.

OTTAWA,
July 22, 1886.

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material to the defense they are questions of fact, which remain to be proved in the vice-admiralty court at Halifax, in which the proceedings for the vessel's condemnation are pending, and in respect of which proof is now being taken, and inasmuch as the trial has not been concluded (much less a decision reached), it is perhaps premature for Mr. Phelps to claim the restoration of the vessel, and to assert a right to damages for her detention, on the assumption of the supposed facts before referred to.

It is alleged in the evidence on behalf of the prosecution that the *David J. Adams*, being a United States fishing vessel, on the morning of the 5th of May, 1886, was in what is called the Annapolis Basin, which is a harbor on the northwest coast of Nova Scotia. She was several miles within the basin, and the excuse suggested (that the captain and crew may have been there through a misapprehension as to the locality) by the words of Mr. Phelps's letter, "Digby is a small fishing settlement, and its harbor not defined," is unworthy of much consideration.

Digby is not a fishing settlement, although some of the people on the neighboring shores engage in fishing. It is a town with a population of about 2,000 persons. Its harbor is formed by the Annapolis Basin, which is a large inlet of the Bay of Fundy, and the entrance to it consists of a narrow strait marked by conspicuous headlands, which are little more than a mile apart. The entrance is called "Digby Gut," and for all purposes connected with this inquiry the harbor is one of the best defined in America.

The *David J. Adams* was, on the morning of the 5th day of May, 1886, as has already been stated, several miles within the Gut. She was not there for the purpose of "shelter," or "repairs," nor to "purchase wood," nor to obtain water. She remained there during the 5th and the 6th of May, 1886; she was lying at anchor about half a mile from the shore, at a locality called "Clements West."

On the morning of the 6th of May, 1886, the captain made application to the owners of a fishing weir near where he was laying for bait, and purchased 4½ barrels of that article. He also purchased and took on board about two tons of ice. While waiting at anchor for these purposes the name of the vessel's "hailing place" was kept covered by canvas, and this concealment continued while she afterwards sailed down past Digby.

One of the crew represented to the persons attending the weir that the vessel belonged to the neighboring province of New Brunswick. The captain told the owner of the weir, when the treaty was spoken of by the latter, that the vessel was under British register. The captain said he would wait until the next morning to get more bait from the catch in the weir which was expected that day. At daybreak, however, on the morning of the 7th of May, 1886, the Government steamer *Lansdowne* arrived off Digby, and the *David J. Adams* got under way without waiting to take in the additional supply of bait, and sailed down the basin towards the Gut.

Before she had passed Digby she was boarded by the first officer of the *Lansdowne*, and to him the captain made the following statement: That he had come to that place to see his people, as he had formerly belonged there; that he had no fresh bait on board, and that he was from the "Banks," and bound for Eastport, Me. The officer of the *Lansdowne* told him he had no business there, and asked him if he knew the law. His reply was, "Yes."

A few hours afterwards, and while the *David J. Adams* was still inside the Gut, the officer of the *Lansdowne*, ascertaining that the statements of the captain were untrue, and that bait had been purchased by him within the harbor on the previous day, returned to the *David J. Adams*, charged the captain with the offense, and received for his reply the assertion that the charge was false, and that the person who gave the information was a "liar."

The officer looked into the hold of the vessel and found the herring which had been purchased the day before, and which, of course, was perfectly fresh; but the captain declared that this "bait" was ten days old.

The officer of the *Lansdowne* returned to his ship, reported the facts, and went again to the *Adams*, accompanied by another officer, who also looked at the bait. Both returned to the *Lansdowne*, and then conveyed the *Adams* the direction that she should come to Digby and anchor near the *Lansdowne*. This was, in fact, the seizure.

These are the circumstances by which the seizure was, in the opinion of Mr. Phelps, "much aggravated," and which make it seem very apparent to him that the seizure "was not made for the purpose of enforcing any right or redressing any wrong."

The fact that the seizure was preceded by visitations and searches was due to the statements of the master and the reluctance of the officers of the *Lansdowne* to enforce the law until they had ascertained to a demonstration that the offense had been committed and that the captain's statements were untrue.

THE OFFENSE AS TO CUSTOMS LAWS.

The *David J. Adams*, as already stated, was in harbor upwards of forty-eight hours, and when seized was proceeding to sea without having been reported at any customs-

house. Her business was not such as to make it her interest to attract the attention of the Canadian authorities, and it is not difficult, therefore, to conjecture the reason why she was not so reported, or to see that the reason put forward, that Digby is but "a small fishing settlement and its harbor not defined," is a disingenuous one. In going to the weir to purchase bait the vessel passed the custom-house at Digby almost within hailing distance. When at the weir she was within 1 or 2 miles of another custom-house (at Clementsport), and within about 15 miles of another (at Annapolis). The master has not asserted that he did not know the law on this subject, as it is established that he knew the law in relation to the restriction on foreign fishing vessels.

The provisions of the customs act of Canada on this subject are not essentially different from those of his own country. The captain and crew were ashore during the 5th and 6th of May, 1886. The following provisions of the customs act of Canada apply:

"The master of every vessel coming from any port or place out of Canada, or coast-wise, and entering any port in Canada, whether laden or in ballast, shall go without delay, when such vessel is anchored or moored, to the custom-house for the port or place of entry where he arrives, and there make a report in writing to the collector or other proper officer of the arrival and voyage of such vessel, stating her name, country, and tonnage, the port of registry, the name of the master, the country of the owners, the number and names of the passengers, if any, the number of the crew, and whether the vessel is laden or in ballast, and, if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stored loose, and where and to whom consigned, and where any and what goods, if any, have been laden or unladen, or bulk has been broken during the voyage, what part of the cargo, and the number and names of the passengers which are intended to be landed at that port, and what and whom at any other port in Canada, and what part of the cargo, if any, is intended to be exported in the same vessel, and what surplus stores remain on board as far as any of such particulars are or can be known to him." (46 Vic., cap. 12, sec. 25.)

"The master shall at the time of making his report, if required by the officer of customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall make and subscribe an affidavit referring to his report, and declaring that all the statements made in the report are true, and shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as are demanded of him by such officer, and shall, if required, make the substance of any such answer part of his report." (46 Vic., cap. 12, sec. 25.)

"If any goods are unladen from any vessel before such report is made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions demanded of him, as provided in the next preceding section, he shall incur a penalty of \$400, and the vessel may be detained until such penalty is paid." (46 Vic., cap. 12, sec. 25.)

PROCEEDINGS FOLLOWING THE SEIZURE.

These have been made the subject of complaint by Mr. Phelps, although the explanations which were given in the previous memorandum of the undersigned (in reference to the letters of Mr. Bayard to Her Majesty's minister at Washington), and in the report on the same subject of the minister of marine and fisheries, laid before his excellency the governor-general on the 14th of June ultimo, coupled with a disavowal, by the Canadian Government, of any intention that the proceedings in such cases should be unnecessarily harsh or pursued in a punitive spirit, might have been expected to be sufficient. After the seizure was made, the commander of the *Lansdowne* took the *David J. Adams* across the Bay of Fundy to St. John, a distance of about 40 miles. He appears to have had the impression that, as his duties would not permit him to remain at Digby, the vessel would not be secure from rescue, which has in several cases occurred after the seizure of fishing vessels. He believed she would be more secure in the harbor of St. John, and that the legal proceedings, which in due course would follow, could be taken there. He was immediately directed, however, to return with the vessel to Digby, as it seemed more in order, and more in compliance with the statutes relating to the subject, that she should be detained in the place of seizure, and that the legal proceeding should be taken in the vice-admiralty court of the province where the offense was committed. It does not seem to be claimed by the United States authorities that any damage to the vessel, or that any injury or inconvenience to any one concerned, was occasioned by this removal to St. John and by her return to Digby, occupying as they did but a few hours, and yet this circumstance seems to be relied on as "aggravating the seizure," and as depriving it of the character of a seizure made "to enforce a right or to redress a wrong."

Another ground of complaint is that in Digby, "the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such a manner as to prevent its contents being read," and that "the request of the captain, and of the United States consul-general, to be allowed to detach the writ from the mast, for the purpose of learning its contents, was positively refused by the provincial official in charge; that the United States consul-general was not able to learn from the commander of the *Lansdowne* the nature of the complaint against the vessel, and that his respectful application to that effect was fruitless."

(1) As to the position of the paper on the mast. It is not a fact that it was nailed to the vessel's mast "in such a manner as to prevent its contents being read." It was nailed there for the purpose of being read, and could have been read.

(2) As to the refusal to allow it to be detached, such refusal was not intended as a discourtesy, but was legitimate and proper. The paper purported to be, and was, a copy of the writ of summons and warrant, which were then in the registry of the vice-admiralty court at Halifax. It was attached to the mast by the officer of the court, in accordance with the rules and procedure of that court. The purposes for which it was so attached did not admit of any consent for its removal.

(3) As to the desire of the captain and of the United States consul-general to ascertain the contents of the paper, the original was in the registry of the court, accessible to every person, and the registry is within 80 yards of the consul-general's office. All the reasons for the seizure and detention were made, however, to the captain, days before the paper arrived to be placed on the mast, and, before the consul-general arrived at Digby; these reasons were not only matters of public notoriety, but had been published in the newspapers of the province and in hundreds of other newspapers circulating throughout Canada and the United States. The captain and the consul-general did not need, therefore, to take the paper from the mast in order to learn the causes of the seizure and detention.

(4) As to the application of the consul-general having been fruitless, the fact has transpired that he had reported the seizure and its causes to his Government before the application was made. It has been already explained in the previous memorandum of the undersigned, and in the report of the minister of marine and fisheries, that the application was for a specific statement of the charges, and that it was made to an officer who had neither the legal requirements nor the authority to state them in a more specific form than that in which he had already stated them. The commander of the *Lansdowne* requested the consul-general to make his request to the minister of the marine and fisheries, and, if he had done so, the specific statement which he had desired could have been furnished in an hour. It is hoped that the explanation already made, and the precautions which have been taken against even the appearance of discourtesy in the future, will, on consideration, be found to be satisfactory.

INCIDENTS OF THE CUSTOMS SEIZURE.

Mr. Phelps presents the following views with respect to the claim that the *David J. Adams*, besides violating the treaty and the statutes relating to "fishing by foreign vessels," is liable to be detained for the penalty under the customs law.

(1) That this claim indicates the consciousness that the vessel could not be forfeited for the offense against the treaty and fishing laws. This supposition is groundless. It is by no means uncommon in legal proceedings, both in Canada and the United States, for such proceedings to be based on more than one charge, although any one of the charges would in itself, if sustained, be sufficient for the purpose of the complainant. The success of this litigation, like that of all litigation, must depend not merely on the rights of the parties but on the proof which may be adduced as to a right having been infringed. In this instance it appears from Mr. Phelps's letter that the facts which are to be made the subject of proof are evidently in dispute, and the Government of Canada could, with propriety, assert both its claims, so that both of them should not be lost by any miscarriage of justice in regard to one of them. This was likewise the proper cause* to be taken in view of the fact that an appeal might at any time be made to the Government by the owners of the *David J. Adams* for the remission of the forfeiture incurred in respect of the fishery laws. The following is a section of the Canadian statute relating to fishing by foreign vessels:

"In cases of seizure under this act, the governor in council may direct a stay of proceedings, and in cases of condemnation may relieve from the penalty in whole or in part, and on such terms as are deemed right." (31 Vic., cap. 61, sec. 19.)

It seems necessary and proper to make at once any claim founded on infraction of the customs laws, in view of the possible termination of the proceedings by executive interference under this enactment. It would surely not be expected that the Government of Canada should wait until the termination of the proceedings under the fishery acts before asserting its claim to the penalty under the customs act. The

owners of the offending vessel and all concerned were entitled to know as soon as they could be made aware what the claims of the Government were in relation to the vessel, and they might fairly urge that any which were not disclosed were waived.

(2) Mr. Phelps remarks that this charge is "not the one on which the vessel was seized" and "was an after-thought." The vessel was seized by the commander of the *Landsdowne* for a violation of the fishery laws before the customs authorities had any knowledge that such a vessel had entered into the port, or had attempted to leave it, and the commander was not aware at that time whether the *David J. Adams* had made proper entry or not. A few hours afterwards, however, the collector of customs at Digby ascertained the facts, and on the facts being made known to the head of his department at Ottawa, was immediately instructed to take such steps as might be necessary to assert the claim for the penalty which had been incurred. The collector did so.

(3) Mr. Phelps asserts that the charge of breach of the customs law is not the one which must now be principally relied on for condemnation. It is true that condemnation does not necessarily follow. The penalty prescribed is a forfeiture of \$400, on payment of which the owners are entitled to the release of the vessel. If Mr. Phelps means by the expression just quoted that the customs offense cannot be relied on in respect to the penalty claimed, and that the vessel cannot be detained until that penalty is paid, it can only be said that in this contention the Canadian Government does not concur. Section 39 of the customs act, before quoted, is explicit on that point.

(4) It is also urged that the offense was, at most, "only an accidental and clearly technical breach of a custom-house regulation, by which no harm was intended, and from which no harm came, and would in ordinary cases be easily condoned by an apology, and perhaps payment of costs." What has already been said under the heading "the offense as to the customs laws" presents the contention opposed to the offense being considered as accidental." The master of the *David J. Adams* showed by his language and conduct that what he did he did with design, and with the knowledge that he was violating the laws of the country. He could not have complied with the customs law without frustrating the purposes for which he had gone into port.

As to the breach being a "technical" one, it must "be remembered that with thousands of miles of coast indented as the coasts of Canada are, by hundreds of harbors and inlets, it is impossible to enforce the fishery law without a strict enforcement of the customs laws. This difficulty was not unforeseen by the framers of the treaty of 1854, who provided that the fishermen should be "under such restrictions as might be necessary to prevent their taking, drying, or curing fish * * * or in any other manner whatever *abusing the privilege reserved to them.*" No naval force which could be equipped by the Dominion would of itself be sufficient for the enforcement of the fishery laws.

Foreign fishing vessels are allowed by the treaty to enter the harbors and inlets of Canada, but they are allowed to do so only for specified purposes. In order to confine them to those purposes it is necessary to insist on the observance of the customs laws, which are enforced by officers all along the coast. A strict enforcement of the customs laws, and one consistent with the treaty, would require that, even when coming into port for the purposes for which such vessels are allowed to enter our waters, a report should be made at the custom-house, but this has not been insisted on in all cases; when the customs laws are enforced against those who enter for other than legitimate purposes, and who choose to violate both the fishery laws and customs laws, the Government is far within its right, and should not be asked to accept an apology and payment of costs. It may be observed here, as affecting Mr. Phelps's demands for restoration and damages, that the apology and costs have never been tendered, and that Mr. Phelps seems to be of opinion that they are not called for.

(5) Mr. Phelps is informed by the consul-general at Halifax that it is "conceded by the customs authorities there that foreign fishing vessels have for forty years been accustomed to go in and out of the bay at pleasure, and have never been required to send ashore and report when they had no business with the port and made no landing, and that no seizure had ever before been made or claim against them for so doing." Nothing of this kind is or could be conceded by the customs authorities there or elsewhere in Canada.

The bay referred to, the Annapolis Basin, is like all the other harbors of Canada, except that it is unusually well defined and land-locked and furnished with custom-houses. Neither there nor anywhere else have foreign fishing vessels been accustomed to go in and out at pleasure without reporting. If they had been so permitted the fishery laws could not have been enforced, and there would have been no protection against illicit trading. While the reciprocity treaty of 1854 and the fishery clauses of the Washington treaty were in force, the convention of 1818 being, of course, suspended, considerable laxity was allowed to the United States fishing vessels, much greater than the terms of those treaties entitled them to, but the consul-

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general is greatly mistaken when he supposes that at other times the customs laws were not enforced, and that seizures of foreign fishing vessels were not made for omitting to report. Abundant evidence on this point can be had.

In 1839 Mr. Vail, the Acting Secretary of State (United States) reported that most of the seizures, which then were considered numerous, were for alleged violation of the customs laws (Papers relating to the Treaty of Washington, vol. vi, p. 283, Washington edition). From a letter of the United States consul at Charlottetown, dated August 19, 1870, to the United States consul-general at Montreal, it appears that it was the practice of the United States fishermen at that time to make regular entry at the port to which they resorted. The consul said, "Here the fishermen enter and clear, and take out permits to land their mackerel from the collector, and as their mackerel is a free article in this island, there can be no illicit trade."

In the year 1870, two United States fishing vessels, the *H. W. Lewis* and the *Granada*, were seized on like charges in Canadian waters.

What Mr. Phelps styles "a custom-house regulation" is an act of the Parliament of Canada, and has for many years been in force in all the provinces of the Dominion. It is one which the Government can not at all alter or repeal, and which its officers are not at liberty to disregard.

(6) It is suggested, though not asserted, in the letter of Mr. Phelps, that the penalty can not reasonably be insisted on, because a new rule has been suddenly adopted without notice. The rule, as before observed, is not a new one, nor is its enforcement a novelty. As the Government of the United States choose to put an end to the arrangement under which the fishermen of that country were accustomed to frequent Canadian waters with so much freedom, the obligation of giving notice to those fishermen that their rights were thereafter, by the action of their own Government, to be greatly restricted, and that they must not infringe the laws of Canada, was surely a duty incumbent on the Government of the United States rather than on that of Canada. This point can not be better expressed than in the language reported to have been recently used by Mr. Bayard, the United States Secretary of State, in his reply to the owners of the *George Cushing*, a vessel recently seized on a similar charge: "You are well aware that questions are now pending between this Government and that of Great Britain in relation to the justification of the rights of American fishing vessels in the territorial waters of British North America, and we shall relax no effort to arrive at a satisfactory solution of the difficulty. In the mean time it is the duty and manifest interest of all American citizens entering Canadian jurisdiction to ascertain and obey the laws and regulations there in force. For all unlawful depredations of property or commercial rights this Government will expect to procure redress and compensation for the innocent sufferers."

INTERPRETATION OF THE TREATY.

Mr. Phelps, after commenting in the language already quoted from his letter on the claim for the customs penalty, treats, as the only question, whether the vessel is to be forfeited for purchasing bait to be used in lawful fishing. In following his argument on this point, it should be borne in mind, as already stated, that in so far as the fact of the bait having been intended to be used in lawful fishing is material to the case, that is a fact which is not admitted. It is one in respect of which the burden of proof is on the owners of the vessel, and it is one on which the owners of the vessel have not yet obtained an adjudication by the tribunal before which the case has gone.

Mr. Phelps admits "that if the language of the treaty of 1818 is to be interpreted literally, rather than according to its spirit and plain intent, a vessel engaged in fishing would be prohibited from entering a Canadian port for any purpose whatever, except to obtain wood or water, or to repair damages, or to seek shelter."

It is claimed on the part of the Government of Canada that this is not only the language of the treaty of 1818, but "its spirit and plain intent." To establish this contention it should be sufficient to point to the clear, unambiguous words of the treaty. To those clear and unambiguous words Mr. Phelps seeks to attach a hidden meaning by suggesting that certain "preposterous consequences" might ensue from giving them their ordinary construction. He says that with such a construction a vessel might be forfeited for entering a port "to post a letter, to send a telegram, to buy a newspaper, to obtain a physician in case of illness, or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants, etc."

There are probably few treaties or statutes, the literal enforcement of which might not in certain circumstances produce consequences worthy of being described as preposterous.

At most, this argument can only suggest that, in regard to this treaty, as in regard to every enactment, its enforcement should not be insisted on where accidental hardships or "preposterous consequences" are likely to ensue. Equity and a natural

sense of justice would doubtless lead the Government with which the treaty was made to abstain from its rigid enforcement for inadvertent offenses, although the right so to enforce it might be beyond question. It is for this reason that, inasmuch as the enforcement of this treaty to some extent devolves on the Government of Canada, the Parliament of the Dominion has in one of the sections already quoted of the statute relating to fishing by foreign vessels (31 Vic., cap. 61, sec. 19) intrusted the executive with power to mitigate the severity of those provisions when an appeal to executive interference can be justified. In relation to every law of a penal character the same power for the same purpose is vested in the executive. Mr. Phelps will find it difficult, however, to discover any authority among the jurists of his own country or of Great Britain, or among the writers on international law, for the position that, against the plain words of a treaty or statute, an interpretation is to be sought which will obviate all chances of hardship and render unnecessary the exercise of the executive power before mentioned.

It might fairly be urged against his argument that the convention of 1818 is less open to an attempt to change its plain meaning than even a statute would be. The latter is a declaration of its will by the supreme authority of the state, the former was a compact deliberately and solemnly made by two parties, each of whom expressed what he was willing to concede, and by what terms it was willing to be bound. If the purposes for which the United States desired that their fishing vessels should have the right to enter British American waters included other than those expressed, their desire can not avail them now, nor be a pretext for a special interpretation after they assented to the words "and for no other purpose whatever." If it was "preposterous" that their fishermen should be precluded from entering provincial waters "to post a letter" or for any other of the purposes which Mr. Phelps mentions, they would probably never have assented to a treaty framed as this was. Having done so they can not now urge that their language was "preposterous," and that its effect must be destroyed by resort to "interpretation."

But that which Mr. Phelps calls "literal interpretation" is by no means so preposterous as he suggests, when the purpose and object of the treaty come to be considered. While it was not desired to interfere with ordinary commercial intercourse between the people of the two countries, the deliberate and declared purpose existed on the part of Great Britain, and the willingness existed on the part of the United States, to secure absolutely and free from the possibility of encroachment the fisheries of the British possessions in America to the people of those possessions, excepting as to certain localities, in respect of which special provisions were made. To effect this it was merely necessary that there should be a joint declaration of the right which was to be established, but that means should be taken to preserve that right. For this purpose a distinction was necessarily drawn between the United States vessels engaged in commerce and those engaged in fishing. While the former had free access to our coasts, the latter were placed under a strict prohibition.

The purpose was to prevent the fisheries from being poached on, and to preserve them to "the subjects of his Britannic Majesty in North America, not only for the pursuit of fishing within the waters adjacent to the coast (which can under the law of nations be done by any country), but as a basis of supplies for the pursuit of fishing in the deep sea." For this purpose it was necessary to keep out foreign fishing vessels, excepting in case of dire necessity, no matter under what pretext they might desire to come in. The fisheries could not be preserved to our people if every one of the United States fishing vessels that were accustomed to swarm along our coasts could claim the right to enter our harbors "to post a letter, or send a telegram, or buy a newspaper, to obtain a physician in case of illness or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants in fire, flood, or pestilence," or to "buy medicine," or to "purchase a new rope."

The slightest acquaintance with the negotiations which led to the treaty of 1818, and with the state of the fishery question preceding it, induces the belief that if the United States negotiators had suggested these as purposes for which their vessels should be allowed to enter our waters, the proposal would have been rejected as "preposterous," to quote Mr. Phelps's own words. But Mr. Phelps appears to have overlooked an important part of the case when he suggested that it is a "preposterous" construction of the treaty, which would lead to the purchase of bait being prohibited. So far from such a construction being against "its spirit and plain intent," no other meaning would accord with that spirit and intent. If we adopt one of the methods contended for by Mr. Phelps of arriving at the true meaning of the treaty, namely, having reference to the "attending circumstances," etc., we find that so far from its being considered by the framers of the treaty that a prohibition of the right to obtain bait would be a "preposterous" and an extreme instance, a proposition was made by the United States negotiators that the proviso should read thus: "Provided, however, That American fishermen shall be permitted to enter such bays and harbors for the purpose only of obtaining shelter, wood, water, and bait," and the insertion of the word "bait" was resisted by the British negotiators and struck out. After

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this, how can it be contended that any rule of interpretation would be sound which would give to United States fishermen the very permission which was sought for on their behalf during the negotiations successfully resisted by the British representatives and deliberately rejected by the framers of the convention?

It is a well-known fact that the negotiations preceding the treaty had reference very largely to the deep-sea fisheries, and that the right to purchase bait in the harbors of the British possessions for the deep-sea fishing was one which the United States fishermen were intentionally excluded from. Referring to the difficulties which subsequently arose from an enforcement of the treaty, an American author says:

"It will be seen that most of those difficulties arose from a change in the character of the fisheries; cod being caught on the banks, were seldom pursued within the 3-mile limit, and yet it was to cod, and perhaps halibut, that all the early negotiations had referred.

"The mackerel fishing had now sprung up in the Gulf of St. Lawrence, and had proved extremely profitable. This was at that time an inshore fishery." (Schuyler's American Diplomacy, page 411.)

In further amplification of this argument, the undersigned would refer to the views set forth in the memorandum before mentioned in the letters of Mr. Bayard in May last, and to those presented in the report of the minister of marine and fisheries, approved on the 14th June ultimo.

While believing, however, that Mr. Phelps can not, by resort to any such matters, successfully establish a different construction for the treaty from that which its words present, the undersigned submits that Mr. Phelps is mistaken as to the right to resort to any matters outside the treaty itself to modify its plain words. Mr. Phelps expresses his contention thus: "It seems to me clear that the treaty may be considered in accordance with those ordinary and well settled rules, applicable to all written instruments, which without such salutary assistance must constantly fail of their purpose. By these rules the letter often gives way to the intent, or rather is only used to ascertain the intent, and the whole document will be taken together and will be considered in connection with the attending circumstances, the situation of the parties, and the object in view, and thus the literal meaning of an isolated clause is often shown not to be the meaning really understood or intended." It may be readily admitted that such rules of interpretation exist, but when are they to be applied? Only when interpretation is necessary—when the words are plain in their ordinary meaning, the task of interpretation does not begin. Vattel says in reference to the "interpretation of treaties":

"The first general maxim of interpretation is, that it is not allowable to interpret what has no need of interpretation. When the deed is worded in clear and precise terms, when its meaning is evident and leads to no absurd conclusion, there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures in order to restrict or extend it is but an attempt to elude it.

"Those cavilers who dispute the sense of a clear and determined article are accustomed to seek their frivolous subterfuges in the pretended intentions and views which they attribute to its author. It would be very often dangerous to enter with them into the discussion of these supposed views that are pointed out in the piece itself. The following rule is better calculated to foil such cavilers, and will at once cut short all chicanery: *If he who could and ought to have explained himself clearly and fully has not done it, it is the worse for him; he cannot be allowed to introduce subsequent restrictions which he has not expressed.* This is a maxim of the Roman law, '*Pactionem obscuram us usure* [*? iis nocere*] *in quorum fuit potestate legem apertius conscribere.*' The equity of this rule is glaringly obvious, and its necessity is not less evident." (Vattel's Interpretation of Treaties, lib. ii, chap. 17.)

Sedgwick, the American writer on the "Construction of Statutes" (and treaties are construed by much the same rules as statutes), says, at page 194: "The rule is, as we shall constantly see, cardinal and universal; but if the statute is plain and unambiguous, there is no room for construction or interpretation. The legislature has spoken; their interpretation is free from doubt, and their will must be obeyed. 'It may be proper,' it has been said in Kentucky, 'in giving a construction to a statute, to look to the effects and consequences when its provisions are ambiguous or the legislative intention is doubtful. But when the law is clear and explicit and its provisions are susceptible of but one interpretation, if evil, can only be avoided by a change of the law itself, to be effected by legislative and not judicial action, 'So, too,' it is said by the Supreme Court of the United States, 'where a law is plain and unambiguous, whether it be expressed in general or limited terms, the legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction.'"

At the tribunal of arbitration at Genoa,* held under the Washington treaty in 1872,

*Geneva.

a similar question arose. Counsel for Her Majesty's Government presented a supplemental argument, in which the ordinary rules for the interpretation of treaties were invoked. Mr. Ervarts, one of the counsel for the United States and afterwards Secretary of State, made a supplemental reply, in which the following passage occurs: "At the close of the special argument we find a general presentation of canons for the construction of treaties and some general observations as to the light or the controlling reason under which these rules of the treaty should be construed. These suggestions may be briefly dismissed. It certainly would be a very great reproach to these nations which had deliberately fixed upon three propositions as expressive of the law of nations, in their judgment, for the purposes of this trial, that a resort to general instructions for the purpose of interpretation was necessary. Eleven canons of interpretation drawn from Vattel are presented in order, and then several of them, as the case suits, are applied as valuable in elucidating this or that point of the rules. But the learned counsel has omitted to bring to your notice the first and most general rule of Vattel, which being once understood would, as we think, dispense with any consideration of these subordinate canons which Vattel has introduced to be used only in case his first general rule does not apply. This first proposition is that '*it is not allowable to interpret what has no need of interpretation.*'" (Washington Treaty Papers, vol. iii, pp. 446-7.)

In a letter of Mr. Hamilton Fish to the United States minister in England on the same subject, dated April 16, 1872, the following view was set forth: "Further than this, it appears to me that the principles of English and American law (and they are substantially the same) regarding the construction of statutes and treaties, and of written instruments generally, would preclude the seeking of evidence of intent outside the instrument itself. It might be a painful trial on which to enter, in seeking the opinions and recollections of parties, to bring into conflict the different expectations of those who were engaged in the negotiation of an instrument." (Washington Treaty Papers, vol. ii, p. 473.)

But even at this barrier the difficulty in following Mr. Phelps's argument, by which he seeks to reach the interpretation he desires, does not end. After taking a view of the treaty which all authorities thus forbid, he says: "Thus regarded, it appears to me clear that the words 'for no other purpose whatever,' as employed in the treaty, mean for no other purpose inconsistent with the provisions of the treaty." Taken in that sense the words would have no meaning, for no other purpose would be consistent with the treaty, excepting those mentioned. He proceeds, "or prejudicial to the interests of the provinces or their inhabitants." If the United States authorities are the judges as to what is prejudicial to those interests, the treaty will have very little value; if the provinces are to be the judges, it is most prejudicial to their interests that United States fishermen should be permitted to come into their harbors on any pretext, and it is fatal to their fishery interests that these fishermen, with whom they have to compete at such a disadvantage in the markets of the United States, should be allowed to enter for supplies and bait, even for the pursuit of the deep-sea fisheries. Before concluding his remarks on this subject, the undersigned would refer to a passage in the answer on behalf of the United States to the case of Her Majesty's Government as presented to the Halifax Fisheries Commission in 1877: "The various incidental and reciprocal advantages of the treaty, such as the privileges of traffic, purchasing bait and other supplies, are not the subject of compensation, because the treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws or the re-enforcement of former oppressive statutes."

Mr. Phelps has made a lengthy citation from the imperial act, 59 George III, cap. 33, for the purpose of establishing—

1st. That the penalty of forfeiture was not incurred by any entry into British ports, unless accompanied by fishing, or preparing to fish, within the prohibited limits.

2d. That it was not the intention of Parliament, or its understanding of the treaty, that any other entry should be regarded as an infraction of the provisions of that act.

As regards the latter point, it seems to be effectually disposed of by the quotation which Mr. Phelps has made. The act permits fishermen of the United States to enter into the bays or harbors of His Britannic Majesty's dominions in America for the purposes named in the treaty, "and for no other purpose whatever," and after enacting the penalty of forfeiture in regard to certain offenses, provides a penalty of £2000 sterling against any person otherwise offending against the act. It can not, therefore, be successfully contended that Parliament intended to permit entry into the British American waters for the purchase of bait, or for any other than the purposes specified in the treaty.

As to the first point, it is to be observed that the penalty of forfeiture was expressly pronounced as applicable to the offenses of fishing or preparing to fish. It may be that forfeiture is incurred by other illegal entry, contrary to the treaty and contrary to the statute. It may also be contended that preparing, within the prohibited limits, to fish in any place is the offense at which the penalty is aimed, or it may be that the

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preparing within these waters to fish is evidence of preparing to fish within the prohibited waters under the imperial statute, and especially under the Canadian statute, which places the burden of proof on the defendant.

The undersigned does not propose at this time to enter into any elaborate argument to show the grounds on which the penalty of forfeiture is available because that question is one which is more suitable for determination by the courts, to whose decision it has been referred in the very case under consideration.

The decision in the case of the *David J. Adams* will be soon pronounced, and as the Government of Canada will be bound by the ultimate judgment of competent authority on this question, and can not be expected to acquiesce in the view of the United States Government without such a judgment, any argument of the case in diplomatic form would be premature and futile.

In order, however, to show that Mr. Phelps is in error when he assumes that the practical construction hitherto given to the treaty is in accordance with his views, it is as well to state that in the year 1815 the commander of one of Her Majesty's ships of war seized four United States fishing vessels (see *Sabine on Fisheries*), and again in 1817 the Imperial Government acted on the view that they had the right to seize foreign vessels encroaching on the fishing grounds. Instructions were issued by Great Britain to seize foreign vessels fishing or at anchor in any of the harbors or creeks in the British North American possessions, or within their maritime jurisdiction, and send them to Halifax for adjudication. Several vessels were seized and information was fully communicated to the Government of the United States. This, it will be remembered, was not only before the treaty, but before the imperial act above referred to.

The following were the words of the Admiralty instructions then issued:

"On your meeting with any foreign vessels, fishing or at anchor in any of the harbors or creeks in His Majesty's North American provinces, or within our maritime jurisdiction, you will seize and send such vessels so trespassing to Halifax for adjudication, unless it should clearly appear that they have been obliged to put in there in consequence of distress, acquainting me with the cause of such seizure and every other particular, to enable me to give all information to the lords commissioners of the Admiralty."

Under these instructions eleven or twelve American fishing vessels were seized in Nova Scotia on June 8, 1817, in consequence of their frequenting some of the harbors of that province.

In 1818 the fishing vessels *Mabby* and *Washington* were seized and condemned for entering and harboring in British American waters.

In 1835 the *Java*, *Independence*, *Magnolia*, and *Hart* were seized and confiscated, the principal charge being that they were within British American waters without legal cause.

In 1840 the *Papineau* and *Mary* were seized and sold for purchasing bait.

In the spring of 1819 a United States fishing vessel named the *Charles* was seized and condemned in the vice-admiralty court in New Brunswick for having resorted to a harbor of that province after warning and without necessity.

In the year 1871 the United States fishing vessel *J. H. Nickerson* was seized for having purchased bait within 3 marine miles of Nova Scotian shore, and condemned by the judgment of Sir William Young, chief justice of Nova Scotia and judge of the court of vice-admiralty. The following is a passage from his judgment:

"The vessel went in, not to obtain water or men, as the allegation says, but to purchase or procure bait (which, as I take it, is a preparing to fish), and it was contended that they had a right to do so, and that no forfeiture accrued on such entering. The answer is, that if a privilege to enter our harbors for bait was to be conceded to American fishermen it ought to have been in the treaty, and it is too important a matter to have been accidentally overlooked. We know, indeed, from the state papers that it was not overlooked; that it was suggested and declined. But the court, as I have already intimated, does not insist upon that as a reason for its judgment. What may be fairly and justly insisted on is, that beyond the four purposes specified in the treaty—shelter, repairs, water, and wood—here is another purpose or claim not specified, while the treaty itself declares that no such other purpose shall be received to justify an entry. It appears to me an inevitable conclusion that the *J. H. Nickerson*, in entering the Bay of Ingonish for the purpose of procuring bait while there, became liable to forfeiture, and upon the true construction of the treaty and acts of Parliament was legally seized." (*Vide* Halifax Com., vol. iii, p. 3393, Washington edition.)

In view of these seizures and of this decision it is difficult to understand the following passages in the letter of Mr. Phelps:

"The practical construction given to the treaty, down to the present time, has been in entire accord with the conclusions thus deduced from the act of Parliament. The British Government has repeatedly refused to allow interference with American fishing vessels, unless for illegal fishing, and has given explicit orders to the contrary."

"Judicial authority upon the question is to the same effect. That the purchase of bait by American fishermen in the provincial ports has been a common practice is well known, but in no case, so far as I can ascertain, has a seizure of an American vessel ever been enforced on the ground of the purchase of bait or of any other supplies. On the hearing before the Halifax Fishery Commission in 1877-78, this question was discussed and no case could be produced of any such condemnation. Vessels shown to have been condemned were in all cases adjudged guilty, either of fishing or preparing to fish within the prohibited limits."

Although Mr. Phelps is under the impression that "in the hearing before the Halifax Fishery Commission in 1877 this question was discussed and no case could be produced of any such condemnation," the fact appears in the records of that Commission, as published by the Government of the United States, that on a discussion which there arose, the instances above mentioned were nearly all cited, and the judgment of Sir William Young in the case of the *J. H. Nickerson* was presented in full, and it now appears among the papers of that Commission. (See vol. iii, Documents and Proceedings of Halifax Commission, page 3398, Washington edition.) The decision in the case of the *J. H. Nickerson* was subsequent to that in the case of the *White Emma* mentioned, to the exclusion of all the other cases referred to by Mr. Phelps. Whether that decision should be reaffirmed or not is a question more suitable for judicial determination than for discussion here.

RIGHT OF THE DOMINION PARLIAMENT TO MAKE FISHERY ENACTMENTS.

Mr. Phelps deems it unnecessary to point out that it is not in the power of the Canadian Parliament to alter or enlarge the provisions of the act of the Imperial Parliament, or to give to the treaty either a construction or a legal effect not warranted by that act.

No attempt has ever been made by the Parliament of Canada, or by that of any of the provinces to give a "construction" to the treaty, but the undersigned submits that the right of the Parliament of Canada, with the royal assent given in the manner provided in the constitution, to pass an act on this subject to give that treaty effect, or to protect the people of Canada from the infringement of the treaty provisions, is clear beyond question. An act of that parliament, duly passed according to constitutional forms, has as much the force of law in Canada, and binds as fully offenders who may come within its jurisdiction, as any act of the Imperial Parliament.

The efforts made on the part of the Government of the United States to deny and refute the validity of colonial statutes on this subject have been continued for many years, and in every instance have been set at naught by the Imperial authorities and by the judicial tribunals.

In May, 1870, this vain contention was completely abandoned, a circular was issued by the Treasury Department at Washington, in which circular the persons to whom it was sent were authorized and directed to inform all masters of fishing vessels that the authorities of the Dominion of Canada had resolved to terminate the system of granting fishing licenses to foreign vessels.

The circular proceeds to state the terms of the treaty of 1818 in order that United States fishermen might be informed of the limitation thereby placed on their privileges. It proceeds further to set out at large the Canadian act of 1868, relating to fishing by foreign vessels, which has been hereinbefore referred to.

The fishermen of the United States were by that circular expressly warned of the nature of the Canadian statute, which it is now once more pretended is without force, but no intimation was given to those fishermen that these provisions were nugatory and would be resisted by the United States Government. Lest there should be any misapprehension on that subject, however, on June 9 of the same year, less than a month after that circular, another circular was issued from the same Department stating again the terms of the treaty of 1818, and then containing the following paragraph: "Fishermen of the United States are bound to respect the British laws for the regulation and preservation of the fisheries to the same extent to which they are applicable to British and Canadian fishermen." The same circular, noticing the change made in the Canadian fishery act of 1868 by the amendment of 1870, makes this observation: "It will be observed that the warning formerly given is not required under the amended act, but that vessels trespassing are liable to seizure without such warning."

THE CANADIAN STATUTE OF 1866.

Mr. Phelps is again under an erroneous impression with regard to the statute introduced at the last session of the Dominion Parliament.

He is informed that "since the seizure" the Canadian authorities have pressed, or are pressing, through the Canadian Parliament in much haste, an act which is designed, for the first time in the history of the legislature under this treaty, to make the facts

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The following observations are appropriate in relation to this passage of Mr. Phelps's letter:

(1) The act which he refers to was not passed in haste. It was passed through the two houses in the usual manner, and with the observance of all the usual forms. Its passage occupied probably more time than was occupied in the passage through the Congress of the United States of a measure which possesses much the same character, and which will be referred to hereafter.

(2) The act has no bearing on the seizures referred to.

(3) It does not make any act illegal which was legal before, but declares what penalty attaches to the offenses which were already prohibited. It may be observed in reference to the charges of "undue haste," and of "legislating for the first time in the history of the legislation under the treaty," that before the statute referred to had become law the United States Congress passed a statute containing the following section:

"That whenever any foreign country whose vessels have been placed on the same footing in the ports of United States as American vessels (the coastwise trade excepted) shall deny to any vessel of the United States any of the commercial privileges accorded to national vessels in the harbors, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessel of the United States, is hereby authorized to issue his proclamation, excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States any of the American vessels in the ports of each foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such country; and on and after the date named in such proclamation for it to take effect, if the master, officer, or agent of any vessel of such foreign country excluded by said proclamation from the exercise of any commercial privileges shall do any act prohibited by said proclamation in the ports, harbors, or waters of the United States for or on account of such vessel, such vessel and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this act, or aiding and abetting any other person in such opposition, shall forfeit \$500 and shall be guilty of a misdemeanor, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years." (Sec. 17 of act No. 65 of Congress, 1866.)

This enactment has all the features of hostility which Mr. Phelps has stigmatized as "unprecedented in the history of legislation under the treaty."

ENFORCEMENT OF THE ACTS WITHOUT NOTICE.

Mr. Phelps insists upon what he regards as "obvious grounds of reason and justice" and "upon common principles of comity, that previous notice should have been given of the new stringent restrictions" it was intended to enforce.

It has already been shown that no new restrictions have been attempted. The case of the *David J. Adams* is proceeding under the statutes which have been enforced during the whole time when the treaty had operation.

It is true that for a short time prior to the treaty of Washington, and when expectations existed of such a treaty being arrived at, the instructions of 1870, which are cited by Mr. Phelps, were issued by the Imperial authorities. It is likewise true that under these instructions the rights of Her Majesty's subjects in Canada were not insisted on in their entirety. These instructions were obviously applicable to the particular time at which and the particular circumstances under which they were issued by Her Majesty's Government.

But it is obviously unfair to invoke them now under wholly different circumstances as establishing a "practical construction" of the treaty, or as affording any ground for claiming that the indulgence which they extended should be perpetual.

The fishery clauses of the treaty of Washington were annulled by a notice from the Government of the United States, and, as has already been urged, it would seem to have been the duty of that Government, rather than of the Government of Canada, to have warned its own people of the consequences which must ensue. This was done in 1870 by the circulars from the Treasury Department at Washington, and might well have been done at this time.

Mr. Phelps has been pleased to stigmatize "the action of the Canadian authority in seizing and still detaining the *David J. Adams*" as not only unfriendly and discourteous, but altogether unwarrantable.

He proceeds to state that that vessel "had violated no existing law," although his letter cites the statute which she had directly and plainly violated; and he states that she "had incurred no penalty that any known statute imposed"; while he has

directed at large the words which inflict a penalty for the violation of that statute. He declares it seems impossible for him to escape the conclusion that "this and similar seizures were made by the Canadian authorities for the deliberate purpose of harassing and embarrassing the American fishing vessels in the pursuit of their lawful employment," and that the injury is very much aggravated by the motives which appear to have prompted it.

He professes to have found the real source of the difficulty in the "irritation that has taken place among a portion of the Canadian people, on account of the termination by the United States Government of the Washington treaty," and in a desire to drive the United States "by harassing and annoying their fishermen into the adoption of a new treaty, by which Canadian fish shall be admitted free," and he declares that "this scheme is likely to prove as mistaken in policy as it is unjustifiable in principle."

He might, perhaps, have more accurately stated the real source of the difficulty, had he suggested that the United States authorities have long endeavored, and are still endeavoring, to obtain that which by their solemn treaty they deliberately renounced, and to deprive the Canadian people of that which by treaty the Canadian people lawfully acquired.

The people of the British North American Provinces ever since the year 1818 (with the exception of those periods in which the reciprocity treaty and the fishery clauses of the Washington treaty prevailed), have, at enormous expense, and with great difficulty, been protecting their fisheries against encroachments by fishermen of the United States, carried on under every form and pretext, and aided by such denunciations as Mr. Phelps has thought proper to reproduce on this occasion. They value no less now than they formerly did the rights which were secured to them by the treaty, and they are still indisposed to yield those rights, either to individual aggression or official demands.

The course of the Canadian Government, since the rescision of the fishery clauses of the Washington treaty, has been such as hardly to merit the aspersions which Mr. Phelps has used. In order to avoid irritation and to meet a desire which the Government represented by Mr. Phelps professed to entertain for the settlement of all questions which could reawaken controversy, they canceled for six months after the expiration of those clauses all the benefits which the United States fishermen had enjoyed under them, although, during that interval, the Government of the United States enforced against Canadian fishermen the laws which those fishery clauses had suspended.

Mr. Lazard, the United States Secretary of State, has made some recognition of these facts in a letter which he is reported to have written recently to the owners of the *David J. Adams*. He says:

"More than one year ago I sought to protect our citizens engaged in fishing from results which might attend any possible misunderstanding between the Governments of Great Britain and the United States as to the measure of their mutual rights and privileges in the territorial waters of British North America. After the termination of the fishery articles of the treaty of Washington, in June last, it seemed to me then, and seems to me now, very hard that differences of opinion between the two Governments should cause loss to honest citizens, whose line of obedience might be thus rendered vague and uncertain, and their property be brought into jeopardy. Influenced by this feeling, I procured a temporary arrangement which secured our fishermen full enjoyment of all Canadian fisheries, free from molestation, during a period which would permit discussion of a just international settlement of the whole fishery question; but other counsels prevailed, and my efforts further to protect fishermen from such trouble as you now suffer were unavailing."

At the end of the interval of six months the United States authorities concluded to refrain from any attempt to negotiate for larger fishery rights for their people, and they have continued to enforce their customs laws against the fishermen and people of Canada.

The least they could have been expected to do under these circumstances was to leave to the people of Canada the full and unquestioned enjoyment of the rights secured to them by treaty. The Government of Canada has simply insisted upon those rights and has presented to the legal tribunals its claim to have them enforced.

The insinuations of ulterior motives, the imputations of unfriendly dispositions, and the singularly inaccurate representation of all the leading features of the questions under discussion, may, it has been assumed, be passed by with little more comment. They are hardly likely to induce Her Majesty's Government to sacrifice the rights which they have heretofore helped our people to protect, and they are too familiar to awaken indignation or surprise.

The undersigned respectfully recommends that the substance of this memorandum, if approved, be forwarded to the secretary of state for the colonies, for the information of Her Majesty's Government.

JNO. S. F. THOMPSON,
Minister of P. & Coe.

OTTAWA, July 22, 1886.

No. 333.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, January 28, 1887. (Received January 29.)

SIR: With reference to your notes* of the 19th and 20th of October last, I have the honor to transmit to you herewith copy of a dispatch from the governor-general of Canada to Her Majesty's secretary of state for the colonies relative to the cases of the American fishing vessels *Pearl Nelson* and *Everett Steele*, which I am instructed by Her Majesty's principal secretary of state for foreign affairs to communicate to the United States Government.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

The Marquis of Lansdowne to Mr. Stanhope.

GOVERNMENT HOUSE, December 20, 1886.

SIR: I had the honor of receiving your dispatch of the 22d of November in regard to the case of the *Everett Steele* and *Pearl Nelson*, recently detained at Shelburne and Arichat, Nova Scotia, for non-compliance with the customs regulations of the Dominion.

The circumstances under which the conduct of these vessels attracted the attention of the customs authorities were set out in the privy council orders of the 18th of November, certified copies of which were forwarded to you under cover of my dispatches of the 29th November.

The information contained in these documents was obtained in order to comply with the request for a report on these two cases which you had addressed to me by telegram on a previous date. I have now carefully examined the fuller statements made by Mr. Bayard, both as to the facts and as to the considerations by which the conduct of the local officials should in his opinion have been governed. You will I think find, on reference to the privy council orders already before you, that the arguments advanced by Mr. Bayard have been sufficiently met by the observations of my minister of marine and fisheries, whose reports are embodied in those orders.

It is not disputed that the *Everett Steele* was in Shelburne Harbor on the 25th March and sailed thence without reporting. In consequence of this omission on the master's part his vessel was, on her return to Shelburne, in September, detained by the collector. The master having explained that his presence in the harbor had been occasioned by stress of weather, and that his failure to report was inadvertent, and this explanation having been telegraphed to the minister of marine at Ottawa, the vessel was at once allowed to proceed to sea; her release took place at noon on the day following that of her detention.

In the case of the *Pearl Nelson* it is not denied that nine of her crew were landed in Arichat Harbor at a late hour in the evening of her arrival and before the master had reported to the custom-house. It is obvious that if men were to be allowed to go on shore, under such circumstances, without notification to the authorities, great facilities would be offered for landing contraband goods, and there can be no question that the master, by permitting his men to land, was guilty of a violation of sections 25 and 180 of the customs act. There seems to be reason to doubt his statement that he was driven into Arichat by stress of weather; but, be this as it may, the fact of his having entered the harbor for a lawful purpose would not carry with it a right to evade the law to which all vessels frequenting Canadian ports are amenable. In this case, as in that of the *Everett Steele*, already referred to, the statement of the master that his offense was due to inadvertence was accepted, and the fine imposed at once remitted.

I observe that in his dispatch relating to the first of these cases Mr. Bayard insists with much earnestness upon the fact that certain "prerogatives" of access to the territorial waters of the Dominion were specially reserved under the convention of 1818 to the fishermen of the United States, and that a vessel entering a Canadian harbor for any purpose coming within the terms of Article I of that convention has as

much right to be in that harbor as she would have to be upon the high seas, and he proceeds to institute a comparison between the detention of the *Everett Steele* and the wrongful seizure of a vessel on the high seas upon the suspicion of being engaged in the slave trade. Mr. Bayard further calls attention to the special consideration to which, from the circumstances of their profession, the fishermen of the United States are, in his opinion, entitled, and he dwells upon the extent of injury which would result to them if they were debarred from the exercise of any of the rights assured to them by treaty or convention.

I observe that in Sir Julian Pauncefote's letter inclosed in your dispatch it is stated that the secretary of state for foreign affairs wishes to urge upon the Dominion Government the great importance of issuing stringent instructions to its officials not to interfere with any of the privileges expressly reserved to United States fishermen under Article 1 of the convention of 1818.

I trust that the explanations which I have already been able to give in regard to the cases of these vessels will have satisfied you that the facts disclosed do not show any necessity for the issuing of instructions other than those already circulated to the local officials intrusted with the execution of the customs as fishery law.

There is certainly no desire on the part of my Government (nor, I believe, does the conduct of the local officials justify the assumption that such a desire exists) to curtail in any respect the privileges enjoyed by United States fishermen in Canadian waters. It can not on the other hand be contended that because these privileges exist, and are admitted by the Government of the Dominion, those who enjoy them are to be allowed immunity from the regulations to which all vessels resorting to Canadian waters are without exception subjected under the customs act of 1853 and the different statutes relating to the fisheries of the Dominion.

In both of the cases under consideration their was a clear and undoubted violation of the law, and the local officials would have been culpable if they had omitted to notice it. That there was no animus on their part or on that of the Canadian Government is, I think, clearly proved by the promptitude with which the circumstances were investigated and the readiness shown to overlook the offense, and to remit the penalty incurred, as soon as proof was forthcoming that the offense had been unintentionally committed. In support of this view I would draw your attention to the letter (see inclosure to my dispatch of 29th November) of Mr. Phelan, the consul-general of the United States at Halifax, who has expressed his own satisfaction at the action of the authorities in the case of the *Pearl Nelson* and who also refers to a communication received by him from the Department of State, in which it is stated that the conduct of the assistant commissioner of customs in dealing with two other cases of a somewhat similar complexion "shows a proper spirit."

I have, etc.,

LANSLOWNE.

No. 334.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, April 4, 1887. (Received April 6.)

SIR: With reference to my note of the 28th of January last, I have the honor to inclose to you herewith copy of an approved report of a committee of the privy council of Canada, embodying a report of the minister of marine and fisheries on the cases of the United States fishing vessels *Pearl Nelson* and *Everett Steele*.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Certified copy of a report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general in council, on the 15th January, 1887.

The committee of the privy council have had under consideration a dispatch dated November 22, 1886, from the secretary of state for the colonies, inclosing letters from Mr. Secretary Bayard, bearing date 19th October, and referring to the cases of the schooners *Pearl Nelson* and *Everett Steele*.

The minister of marine and fisheries, to whom the dispatch and inclosures were referred, reports that in reply to a telegram from the secretary of state for the colonies, an order in council, passed on the 15th November last, containing a full statement of facts regarding the detention of the above-named vessels, was transmitted to Mr. Stanhope; it will not therefore be necessary to repeat this statement in the present report.

The minister observes in the first place that the two fishing schooners *Everett Steele* and *Pearl Nelson* were not detained for any alleged contravention of the treaty of 1818 or the fishery laws of Canada, but solely for the violation of the customs law. By this law all vessels of whatever character are required to report to the collector of customs immediately upon entering port, and are not to break bulk or land crew or cargo before this is done.

The minister states that the captain of the *Everett Steele* had on a previous voyage entered the port of Shelburne on the 25th March, 1886, and after remaining for eight hours had put to sea again without reporting to the customs. For this previous offense he was, upon entering Shelburne Harbor on the 10th September last, detained and the facts were reported to the minister of customs at Ottawa. With these facts was coupled the captain's statement that on the occasion of the previous offense he had been misled by the deputy harbor-master, from whom he understood that he would not be obliged to report unless he remained in harbor for twenty-four hours. The minister accepted the statement in excuse and the *Everett Steele* was allowed to proceed on her voyage.

The customs laws had been violated; the captain of the *Everett Steele* admitted the violation, and for this the usual penalty could have been legally enforced. It was, however, not enforced, and no detention of the vessel occurred beyond the time necessary to report the facts to headquarters and obtained the decision of the minister.

The minister submits that he can not discern in this transaction any attempt to interfere with the privileges of United States fishing vessels in Canadian waters or any sufficient case for the protest of Mr. Bayard.

The minister states that in the case of the *Pearl Nelson* no question was raised as to her being a fishing vessel or her enjoyment of any privileges guaranteed by the treaty of 1818. Her captain was charged with a violation of the customs law, and of that alone, by having, on the day before reporting to the collector of customs at Arichat, landed ten of his crew.

This he admitted upon oath. When the facts were reported to the minister of customs he ordered that the vessel might proceed upon depositing \$200, pending a fuller examination. This was done, and the fuller examination resulted in establishing the violation of the law and in finding that the penalty was legally enforceable. The minister, however, in consideration of the alleged ignorance of the captain as to what constituted an infraction of the law, ordered the deposit to be refunded.

In this case there was a clear violation of Canadian law; there was no lengthened detention of the vessel; the deposit was ultimately refunded, and the United States consul general at Halifax expressed himself by letter to the minister as highly pleased at the result.

The minister observes that in this case he is at a loss to discover any well-founded grievance or any attempted denial of or interference with any privileges guaranteed to United States fishermen by the treaty of 1818.

The minister further observes that the whole argument and protest of Mr. Bayard appears to proceed upon the assumption that these two vessels were subjected to unreasonable interference in that they were called upon to submit to the requirements of Canadian customs law, and that this interference was prompted by a desire to curtail or deny the privileges of resort to Canadian harbors for the purposes allowed by the treaty of 1818.

It is needless to say that this assumption is entirely incorrect.

Canada has a very large extent of sea-coast with numberless ports, into which foreign vessels are constantly entering for purposes of trade. It becomes necessary in the interests of legitimate commerce that stringent regulations should be made by compulsory conformity to which illicit traffic should be prevented. These customs regulations all vessels of all countries are obliged to obey, and these they do obey, without in any way considering it a hardship. United States fishing vessels come directly from a foreign and not distant country, and it is not in the interests of legitimate Canadian commerce that they should be allowed access to our ports without the same strict supervision as is exercised over all other foreign vessels, otherwise there would be no guaranty against illicit traffic of large dimensions to the injury of honest trade and the serious diminution of the Canadian revenue. United States fishing vessels are cheerfully accorded the right to enter Canadian ports for the purpose of obtaining shelter, repairs, and procuring wood and water; but in exercising this right they are not, and can not be, independent of the customs laws. They have the right to enter for the purposes set forth, but there is only one legal way in which to enter, and that is by conformity to the customs regulations.

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When Mr. Bayard asserts that Captain Forbes had as much right to be in Shelburne Harbor seeking shelter and water "as he would have had on the high seas carrying on under shelter of the flag of the United States legitimate commerce," he is undoubtedly right, but when he declares, as he does in reality, that to compel Captain Forbes, in Shelburne Harbor, to conform to Canadian customs regulations, or to punish him for their violation, is a more unwarrantable stretch of power than "that of seizure on the high seas of a ship unjustly suspected of being a slaver," he makes a statement which carries with it its own refutation.

Customs regulations are made by each country for the protection of its own trade and commerce, and are enforced entirely within its own territorial jurisdiction, while the seizure of a vessel upon the high seas, except under extraordinary and abnormal circumstances, is an unjustifiable interference with the free right of navigation common to all nations.

As to Mr. Bayard's observation that by treatment such as that experienced by the *Everett Steele*, "the door of shelter is shut to American fishermen as a class," the minister expresses his belief that Mr. Bayard can not have considered the scope of such an assertion or the inferences which might reasonably be drawn from it.

If a United States fishing vessel enters a Canadian port for shelter, repairs, or for wood and water, her captain need have no difficulty in reporting her as having entered for one of those purposes, and the *Everett Steele* would have suffered no detention had her captain, on the 25th March, simply reported his vessel to the collector. As it was, the vessel was detained for no longer time than was necessary to obtain the decision of the minister of customs, and the penalty for which it was liable was not enforced. Surely Mr. Bayard does not wish to be understood as claiming for United States fishing vessels total immunity from all customs regulations, or as intimating that if they can not exercise their privileges unlawfully they will not exercise them at all.

Mr. Bayard complains that the *Pearl Nelson*, although seeking to exercise no commercial privileges, was compelled to pay commercial fees, such as are applicable to trading vessels. In reply the minister observes that the fees spoken of are not "commercial fees;" they are harbor-master's dues, which all vessels making use of legally constituted harbors are, by law, compelled to pay, and entirely irrespective of any trading that may be done by the vessel.

The minister observes that no single case has yet been brought to his notice in which any United States fishing vessel has in any way been interfered with for exercising any rights guaranteed under the treaty of 1818 to enter Canadian ports for shelter, repairs, wood, or water; that the Canadian Government would not countenance or permit any such interference, and that in all cases of this class when trouble has arisen it has been due to a violation of Canadian customs law, which demands the simple legal entry of the vessel as soon as it comes into port.

The committee concurring in the above report recommend that your excellency be moved to transmit a copy thereof to the right honorable the secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

No. 335.

*Mr. Bayard to Sir L. S. Sackville West.*DEPARTMENT OF STATE,
Washington, April 11, 1877.

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, accompanied by a copy of an approved report of a committee of a privy council of Canada in relation to the cases of the American fishing vessels *Pearl Nelson* and *Everett Steele*, which were brought to your attention by my notes of October 19th and 20th last.

I have, etc.,

T. F. BAYARD.

No. 338.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, May 17, 1887. (Received May 18.)

SIR: With reference to your notes of the first December, 11th November, and 27th January last, I have the honor to inclose herewith copies of dispatches from the governor-general of Canada covering reports of a committee of the privy council respecting the cases of the United States fishing vessels *Mollie Adams*, *Laura Sayward*, *Jennie Seaverns*, and *Sarah H. Prior*, which I have received from the Marquis of Salisbury for communication to the United States Government.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

*The Marquis of Lansdowne to Sir Henry Holland.*GOVERNMENT HOUSE,
Ottawa, April 12, 1887.

SIR: I caused to be referred for the consideration of my Government a copy of your dispatch of the 23d February last transmitting copy of a letter from the foreign office, with its inclosures, respecting the case of the *Sarah H. Prior* and requesting to be furnished with a report upon the alleged conduct of the captain of the Canadian revenue

cutter *Critie* on the occasion referred to, and I have now the honor to forward herewith a certified copy of an approved report of a committee of my privy council embodying a statement of Captain McLaren, of the *Critie*, with reference to the circumstances complained of.

I have, etc.,

LANSDOWNE.

[Inclosure 2.]

Certified copy of a report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general in council on the 7th April, 1887.

The committee of the privy council have had under consideration a dispatch dated 23d February, 1887, from the right honorable the secretary of state for the colonies asking that an investigation may be made into the conduct of the captain of the Canadian cruiser *Critie* as regards the treatment extended to Capt. Thomas McLaughlin, of the U. S. fishing schooner *Sarah H. Prior*, in the harbor of Malpeque, Prince Edward Island, in September last.

The minister of marine and fisheries, to whom the dispatch was referred, submits the following statement of Captain McLaren, of the *Critie*, with reference to the circumstances complained of.

On or about the 14th September, 1886, Captain McLaughlin, of the *Sarah H. Prior*, came on board the government cruiser *Critie* at Malpeque, Prince Edward Island, wanting to know if he would be infringing on the laws by paying the captain of the schooner *John Ingalls* a small sum of money for the recovery of a seine which he said he had lost a few days before, and which had been picked up by the said captain.

I told him that I would not interfere with him if the captain of the *Ingalls* chose to run the risk of taking the matter in his own hands, but that the proper course would be for the captain of the *John Ingalls* to report the matter to the collector of customs, who was also receiver of wrecks, and then if he (Captain McLaughlin) could prove that the seine was his, he could recover it by paying the costs. Captain McLaughlin then said that as the seine was all torn to pieces, he would not bother himself about it.

The captain of the *John Ingalls* did not come to see me about the matter, and I heard nothing of it afterwards.

W. McLAREN.

The committee respectfully advise that your excellency be moved to forward the foregoing statement of Captain McLaren to the right honorable the secretary of state for the colonies in answer to his dispatch of the 23d February last.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure 3.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE,
Ottawa, April 2, 1887.

SIR: I have the honor to inclose herewith a certified copy of a privy council order respecting the case of the United States schooner *Mollie Adams*, which formed the subject of your predecessor's dispatches of the 6th October and 16th December.

I have to express my regret that it should have proved impossible to supply you with the necessary information bearing upon this case at an earlier date. Some time was, however, taken in collecting the evidence embodied in the reports, copies of which accompany the minute, and the occurrence of the general elections for the federal parliament to some extent interrupted the course of business in the public departments and increased the delay.

You will find in the report of my minister of marine and fisheries, and in the inclosures appended to it, a full and, I think, satisfactory reply to the whole of the charges made by the Government of the United States against the conduct of the Canadian officials concerned in the matter of the *Mollie Adams*.

I would venture to draw your especial attention to the concluding passages of the minister's report, in which he earnestly deprecates the manner in which in this, as well as in other cases in which disputes have arisen under conditions of a similar character, the Government of the United States has not hesitated to adopt without

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inquiry, and to support with the whole weight of its authority, *ex parte* charges
irretrievably unconfirmed by collateral evidence, and unaccompanied by any official at-
tention.

In view of the fact that owing to the action of the Government of the United
States in terminating the fishery clauses of the treaty of Washington, a large body of
American fishermen have suddenly found themselves excluded from waters to which
they had for many years past resorted without molestation, and that the duty of thus
shielding them has been thrown upon a newly constituted force of fishery police,
necessarily without experience of the difficult and delicate duties which it is called
on to perform, there would be no cause for surprise if occasional cases of hardship
or overzealous action upon the part of the local authorities engaged in protecting
the interests of the Dominion were to be brought to light. It is the earnest desire of
the Government to guard against the occurrence of any such cases, to deal in a spirit
of generosity and forbearance with United States fishermen resorting to Canadian
waters in the exercise of their lawful rights, and to take effectual measures for pre-
venting arbitrary or uncalled-for interference on the part of its officials with the
privileges allowed to foreign fishermen under the terms of the convention of 1818.

The difficulty of acting in such a spirit must, however, be greatly increased by
the course which has been pursued in this and in numerous other cases already brought
before your notice in founding not only the most urgent remonstrances, but the most
direct and offensive charges and the most unjust imputation of motives upon com-
plaints such as that put forward by the captain of the *Mollie Adams*, a person so
terrate that he appears not to have been qualified to make out the ordinary entry
book upon his arrival in a Canadian port, but whose statements, many of which bear
evidence on their face of their untrustworthiness, appear to have been ac-
cepted in *globo* without question by the Secretary of State.

I cannot help thinking, concur in the opinion expressed in the minister's
report that such hasty and indiscriminate accusations can only have the effect of
injuring and embittering public feeling in both countries, and of retarding the
prospect of a reasonable settlement of the differences which have unfortunately
arisen between them upon these subjects.

I have, etc.,

LANDSOWNE.

[Inclosure 4.]

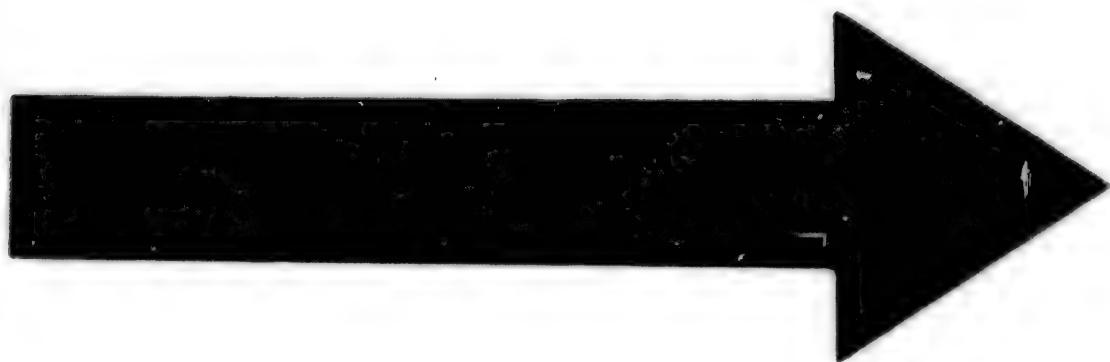
Report of a committee of the honorable the privy council for Canada, approved by His ex-
cellency the governor-general in council on the 31st March, 1887.

The committee of the privy council have had under consideration a dispatch dated
October, 1886, from the right honorable the secretary of state for the colonies,
transmitting a copy of a letter from the foreign office inclosing copy of a dispatch
from Her Majesty's minister at Washington with a note from the Secretary of State of
the United States, calling attention to the alleged refusal of the collector of customs at
Port Mulgrave, Nova Scotia, to allow the master of the United States fishing vessel
Mollie Adams to purchase barrels to hold a supply of water for the return voyage, and
to a further dispatch dated 16th December, 1886, referring to the same schooner,
Mollie Adams, and her alleged treatment at Malpeque, Prince Edward Island, and
at Medway, Nova Scotia, and requesting an early report on the circumstances of
the case.

The minister of marine and fisheries to whom the said dispatches and inclosures
were referred submits the following report thereon:

Mr. Bayard's note of the 10th September calls attention to the alleged refusal of the
collector of customs at Port Mulgrave, Nova Scotia, to allow the master of the *Mol-
lie Adams* to purchase barrels to hold a supply of water for which the vessel had put
to port. The report of the subcollector of customs at Port Mulgrave, which is
also annexed, and which he expresses his readiness to verify upon oath, shows that
the *Mollie Adams* was fitted out with a water-tank which was reported as leaking,
and the collector offered to borrow barrels for carrying the water on board if the
tanks were made tight, and even offered to send a man on board to perform this work;
and while the captain of the schooner and he were in conversation one of the crew
brought the information that the cook had succeeded in calking the tank.

That thereupon the subcollector borrowed the seven barrels, with which the crew
supplied water for their vessel; that the barrels were returned to the collector, and
the captain appeared well pleased with what had been done. The good will of the
collector is also shown in his giving the men a letter to his superior officer, in ex-
planation of the circumstances, and recommended that the purchase of barrels be
allowed, a step which was rendered unnecessary by the arrangements later made.



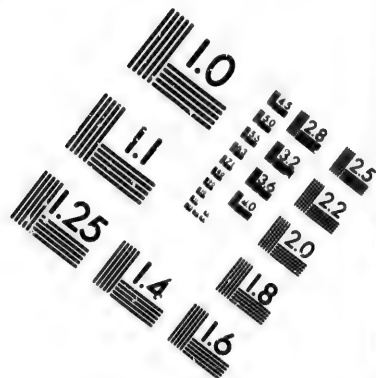
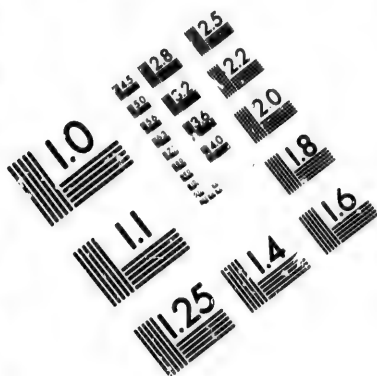
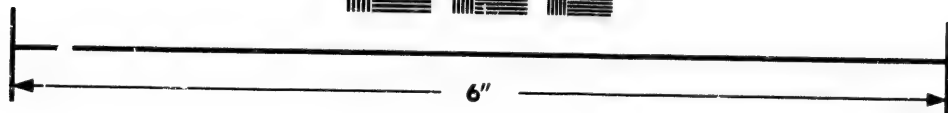
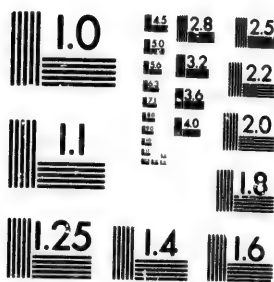


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The subcollector in answer to his inquiry as to what had become of the water barrels in use on board the vessel was informed that they had been filled with mackerel. This answer goes to prove that Mr. Murray was acting strictly within the scope of his duty in ascertaining that the barrels sought to be purchased were not to be used for an illicit purpose.

The colonial secretary's dispatch of the 16th December, 1886, refers to the same schooner, the *Mollie Adams*, and her alleged treatment at Malpeque, Prince Edward Island, and Port Medway, Nova Scotia.

In this case Mr. Bayard's representations are based solely upon a letter written to him by the captain of the vessel under date the 12th November, which is unsupported by any other evidence, and upon the strength of which Mr. Bayard proceeds to charge the Canadian authorities with "churlish and inhospitable treatment," and with exhibiting a coldness and rudeness of conduct at variance with the hospitable feelings of common humanity.

The minister of marine and fisheries submits, as a complete reply to the allegations contained in Captain Jacob's letter—(1) The statement of the collector of customs at Malpeque, Prince Edward Island, (2) the statement of Captain McLaren, of the Canadian cruiser *Critic*, and (3) the report of the collector of customs at Port Medway.

The two former officers, although giving their reports without concert, agree upon the main points at issue, and the statements of all three are clear, straightforward and reasonable, and in marked contrast to the sensational and improbable story related by Captain Jacobs.

Captain Jacobs declares that on or about the 26th September last, during very heavy weather, he fell in with the bark *Neskilita*, which had run on a bar at Malpeque Harbor and become a total wreck. That he took off the crew, seventeen in number, at 12 o'clock at night, carried them to his own vessel, fed them for three days, and then gave them \$60 with which to pay their fare home, and provisions to last them on their way. He states that the captain of the Canadian cruiser *Critic* came on board, was told the circumstances, but offered no assistance, and that no one on shore would take the wrecked men unless he became responsible for the payment of their board.

The collector at Malpeque in his report says that early on the morning after the wreck, so soon as the news reached him he repaired to the harbor to see what assistance could be given; that he then met the captain of the *Neskilita* in company with Captain Jacobs, and was told by the latter that the crew of the wrecked vessel were comfortably cared for on his vessel, and that nothing more could be done.

Captain McLaren, of the *Critic*, says that he at once visited the *Mollie Adams* and was told by Captain Jacobs that "he had made all arrangements for the crew."

The collector and Captain McLaren agree in stating from information gathered by them that the crew of the wrecked vessel came to shore in their own boat unassisted, and after boarding a Nova Scotia vessel were invited by Captain Jacobs, with whom the captain of the *Neskilita* had beforehand sailed out of Gloucester, to go on board the *Mollie Adams*.

The collector was asked by the captain of the *Neskilita* if he would assist himself and crew to their homes, and answered that he could not unless assured that the themselves were without means for that purpose, in which case he would have to telegraph to Ottawa for instructions. The captain of the *Neskilita* made no further application.

The minister observes that it is the practice of the Dominion Government to assist shipwrecked and destitute sailors, in certain cases of great hardship, to their destination or homes, but in all cases it must be clear that they are destitute, and the application for assistance must be made to Ottawa through the collector of customs. Had such an application been made by the captain of the *Neskilita* it would have received due consideration.

In answer to the charge that board could not be obtained for the wrecked crew, it is stated by Captain McLaren that the crew of a United States vessel wrecked about the same time found no difficulty in getting board and that the captain of the *Neskilita* had himself arranged to board with the collector, who expressed surprise at his failing to come.

Captain Jacobs complains that he was not allowed to land from his vessel the material saved from the wreck. To this charge the collector replies that he received intimation of any wrecked material except the crew's luggage being on board the *Mollie Adams*, and Captain Jacobs made no request to him regarding the landing of wrecked material, and that he (the collector) gave all assistance in his power to the captain of the *Neskilita* in saving material from the wreck.

It was subsequently discovered that Captain Jacobs had on board the *Mollie Adams* a seine from the wrecked vessel belonging to the underwriters, for taking care of which, when obliged to give it up, Captain Jacobs claimed and was paid the sum of \$100.

Captain Jacobs states that he was put to a loss of ten days' fishing by his detention with the *Neskilita*. The reports of both the collector and Captain McLaren agree

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giving a very different and sufficient reason, viz, very bad weather and consequent inability to fish, a disability experienced by the whole fishing fleet at that time anchored in Malpeque.

The second complaint of Mr. Bayard is that when Captain Jacobs, experiencing a dearth of provisions as a consequence of his charitable action, shortly after put into Port Medway and asked to purchase half a barrel of flour and enough provisions to make him home, the collector, "with full knowledge of all the circumstances," refused the request and threatened him with seizure if he bought anything whatever.

The collector's report, hereto annexed, shows that Captain Jacobs entered his port on the 25th October, fully one month after the occurrence at Malpeque; that in entering he made affirmation that he called for shelter and repairs, and for no "other purpose whatever;" that just before leaving he asked permission to purchase half a barrel of flour, and when asked by the collector if he was without provisions, he replied that he was not, adding that he had "a good supply of all kinds of provisions except flour, and enough of that to last him home unless he met some unusual delay."

Under these circumstances the collector did not give the permission asked, but he made no threat of seizure of vessel or imposition of penalty.

Mr. Bayard supports the complaint of Captain Jacobs that he was charged fees for entering his vessel at Canadian customs, and that these fees varied at different ports, being, for instance, 15 cents at Souris, Prince Edward Island, 50 cents at Port Mulgrave, and 50 cents at Port Hood, at which latter port Captain Jacobs sent his brother to enter for him, but was informed that his entry was illegal and that he, as master, must himself enter his vessel. He complains of being obliged to pay twice, once for his brother's entry and once for his own.

The minister states with regard to this that no collector of customs in Canada is authorized to charge a fee for entering or clearing a vessel, nor for any papers necessary to do this. Sailing masters, however, who are unused to the law, or not competent to make out their papers, are in the habit of employing persons as customs brokers to make out their papers for them, and for this service these brokers charge a small fee. These are not Government officers nor under Government control, and their services are voluntarily paid for by those who employ them. The small fees of which Captain Jacobs complains need not have been paid by him if he had been willing or qualified to make out his own papers. That he was not so willing or qualified and that he employed a broker to make out his papers is conclusively shown by the following telegram received from the collector at Port Hood, the charges at which port Mr. Secretary Bayard so vigorously denounces.

[Copies of telegrams.]

"Deputy minister of fisheries to collector, Port Hood, Nova Scotia.

"OTTAWA, March 16, 1887.

"Did you during last season exact from Captain Solomon Jacobs, of schooner Mollie Adams, any charge for reporting, or other service at Port Hood? If so, please state amount received and for what."

"Collector, Port Hood, to deputy minister of fisheries.

"PORT HOOD, NOVA SCOTIA, March 16, 1887.

"Solomon Jacobs, of schooner Mollie Adams, sent one of his crew to report 13th September last; he made a report. I told him, however, that the report should be made by the master. A few hours afterwards Jacobs himself came and reported. He got Dan. McLennan, who is now in Halifax, to write out the reports. I believe I charged them 25 cents each for brokerage. No other charges whatever were made."

The minister states that he has no doubt that the other payments at customs ports made by Mr. Bayard were made for services rendered Captain Jacobs by persons making out his entry papers, and which he does not appear to have been qualified to himself.

With reference to Mr. Bayard's reiteration of Captain Jacobs's complaint that in different harbors he was obliged to pay a different scale of dues, the minister of marine submits that in Canada there are distinct classes of harbors. Some are under the control of a commission appointed wholly or in part by the Government, under whose management improvements are made and which regulates, subject to the approval of Government, the harbor dues which are to be paid by all vessels entering the ports and enjoying the advantages therein provided.

Others are natural harbors in great part unimproved, whose limits are generally fixed by order in council and for which a harbor-master is appointed by Government, to whom all vessels entering pay certain nominal harbor-master's fees, which

are regulated by a general act of parliament, and which constitute a fund out of which the harbor-master is paid a small salary for his services in maintaining order within the harbor. The port of St. John, New Brunswick, is entirely under municipal control and has its own stated and uniform scale of charges.

Harbor dues are paid whenever a vessel enters a port which is under a commission and harbor-master's fees are paid only twice per calendar year by vessels entering ports not under a commission. Sydney belongs to the first class, and at that port Captain Jacobs paid the legal harbor dues. Malpeque and Port Mulgrave belong to the second class, and in those Captain Jacobs paid the legal harbor-master's fees, which, for a vessel like his, of from 100 to 200 tons, is \$1.50. That he paid only \$1 at Malpeque is due to an error of the harbor master, who should have charged him \$1.50, and by this error Captain Jacobs saved 50 cents, of which he should not complain. For full information as to the legal status of Canadian harbors Mr. Bayard is respectfully referred to the Canadian Statutes, 36 Vict., cap. 63; 42 Vict., cap. 30; and 43 Vict., cap. 30.

The minister of marine and fisheries believes that after a thorough perusal of the evidence Mr. Bayard will not cite the payments made by Captain Jacobs as evidences of the "irresponsible and different treatment to which he was subjected in the several ports he visited, the only common feature of which seems to have been a surly hostility."

The minister submits that, from a careful consideration of all the circumstances, he can not resist the conviction that, in this whole transaction, Captain Jacobs was more concerned in making up a case against the Canadian authorities than in unobtrusively performing any necessary acts of hospitality, and that his version of the matter, as sent to Mr. Bayard, is utterly unreliable.

The *Neskilita* was wrecked off a Canadian harbor; the crew, it is stated, came ashore in their own boat and unassisted; a Canadian collector was at hand offering his services, and within easy appeal to the Government, and the captain of a Canadian cruiser was in port; yet, Captain Jacobs would appear, by his own story, to have taken complete charge of the captain, to have ignored all proffers of assistance, and to have constituted himself the sole guardian and spokesman of the wrecked crew, to have been in short the one sole man actuated by kindly, humane feelings among a horde of cruel and unsympathetic Canadians.

For any exercise of good-will and assistance to Canadian seamen in distress by either foreign or native vessels, the Canadian Government can not but feel deeply grateful, and stands ready, as has been its invariable custom, to recognize suitably and reward such services, and when Captain Jacobs performs any necessary act of charitable help towards Canadian seamen in distress without the obvious aim of manufacturing an international grievance therefrom, he will not prove an exception to Canada's generous treatment.

The minister observes that in a dispatch to the governor-general, dated the 27th December, 1886, and in reference to this same case, Mr. Stanhope writes: "With reference to my dispatch of the 16th instant relating to the case of the United States fishing vessel *Mollie Adams*, and referring to the general complaints made on the part of the United States Government of the treatment of American fishing vessels at Canadian ports, I think it right to observe that whilst Her Majesty's Government do not assume the correctness of any allegations without first having obtained the explanations of the Dominion Government, they rely confidently upon your minister taking every care that Her Majesty's Government are not placed in a position of being obliged to defend any acts of questionable justice or propriety."

The minister, while thanking Her Majesty's Government for the assurance conveyed that it will not "assume the correctness of any allegations without having obtained the explanations of the Dominion Government," and whilst assuring Her Majesty's Government that every possible care has been and will be taken that no "acts of questionable justice or propriety" are committed by the officers of the Dominion Government, can not refrain from calling attention to the loose, unreliable, and unsatisfactory nature of much of the information supplied to the United States Government, and upon which very grave charges are made, and very strong language officially used against the Canadian authorities. For instance, as stated in a previous part of this report, the strong representations made by Mr. Bayard in the case of the *Mollie Adams* are based solely upon a letter written by Captain Jacobs, not even accompanied by an official attestation, and not supported by a tittle of corroborative evidence.

It does not appear that any attempt was made to investigate the truth of the story, unreasonable and improbable as it must have appeared, as the letter written by Captain Jacobs bears date the 12th November, while Mr. Bayard's note based thereupon is dated the 1st December. It would seem only fitting that in so grave a matter, involving alike the good name of a friendly country and the continued subsistence of previous amicable relations, great care should have been taken to avoid the use of such strong and even hostile language, based upon the unsupported statements of an interested skipper, and one whose reputation for straightforward conduct does not appear to be above reproach, if credence is to be given to the attack

description, taken from the Boston Advertiser, of a transaction said to have occurred in his native city, and in which Captain Jacobs appears to have played no enviable part.

Numerous other instances of like flimsy and unreliable foundations for charges made against the Canadian authorities in regard to their treatment of United States fishing vessels can not have failed to attract the attention of Her Majesty's Government in the dispatches which from time to time have reached it from the United States.

The master of a United States fishing vessel, imperfectly understanding the provisions of the convention of 1818, the requirements of the Canadian customs law, or the regulations of Canadian ports, having, perhaps, an exaggerated idea of his supposed rights, or, it may be, desirous of evading all restrictions, is brought to book by officers of the law. He feels aggrieved and angry, and straightway conveys his supposed grievance to the authorities at Washington. Thereupon, without any seeming allowance for the possibility of the statement being inaccurate or the narrator unfriendly, and with apparently no attempt to investigate the truth of the statement, it is made the basis of strong and unfriendly charges against the Canadian Government. Canada has suffered from such unfounded representations, and against the course adopted by the United States in this respect the minister enters his most earnest protest.

As an additional instance of the manner in which evidence is gathered and used to the prejudice of the Canadian case the minister calls attention to a communication submitted to the Senate of the United States by Mr. Edmunds, and which forms printed Document No. 54 of the Forty-ninth Congress, second session. This is the report of Mr. Spencer F. Baird, United States Fish Commissioner, containing a list, with particulars, of sixty-eight New England fishing vessels which had, as he alleged, "been subjected to treatment which neither the treaty of 1818 nor the principles of international law would seem to warrant."

The minister observes that it will appear from a perusal of this report that these sixty-eight cases were made up by Mr. Baird's officer from answers of owners, agents, or masters of fishing vessels in response to a circular letter sent to all New England fishing vessels, inviting them to forward statements of any interference with their operations by the Canadian Government.

Not a single statement was investigated by the Commissioner or any one acting for him, and not a single statement is accompanied by the affidavit of the person making it, or by corroborative evidence of any kind. In most instances, neither date, locality, nor name of Canadian officer is given, and an analysis of many of the cases affords prima facie evidence that they embody no real cause for complaint; yet Mr. Baird and his officer, Mr. Earle, vouched for the correctness and entire reliability of these sixty-eight statements. They were gravely submitted to the Senate as trustworthy evidence of Canadian aggression, and became, no doubt, powerful factors in influencing Congressional legislation hostile to Canadian and British interests.

The minister, while inviting attention to and strongly deprecating such action as above recited on the part of the United States, takes occasion, at the same time, to express his entire confidence that the rights of Canada will not thereby be in any degree prejudiced in the eyes of Her Majesty's Government.

The committee concur in the foregoing report of the minister of marine and fisheries, and they recommend that your Excellency be moved to transmit a copy of this minute, if approved, to the right honorable the secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council Canada.

[Inclosure 5.]

Mr. Murray, jr., to Mr. Tilton.

PORT MULGRAVE, NOVA SCOTIA,
November 1, 1886.

SIR: Referring to your letter of 28th October, I beg to say that on Monday, the 30th August, the schooner *Mollie Adams*, of Gloucester, Mass., Solomon Jacobs, master, passed two customs ports in the Straits of Canso before coming to my port. In fact, he sent his boat (dory) with his brother and a Captain Campbell to me to see if I would allow him to get seven empty barrels to put water in. I asked the men what they did with their water barrels. They told me they had filled them with mackerel, and that their tank leaked. I told the men that I had no power to allow them to purchase barrels, but I would borrow barrels to fill with water if they would caulk the tank. I also gave them a letter to take up to my superior, asking him to allow Captain Jacobs to purchase the barrels. They went on board, told their story, and

the captain anchored his vessel and came ashore to see me. I offered to send a man on board to caulk the tank. In the mean time one of the crew came on shore and said that the cook had succeeded in tightening the tank; that it held salt water. I then borrowed the seven barrels to fill the water, which they did, and I returned the barrels again, and the captain was well pleased, as he appeared so.

If this is not satisfactory I can make oath to the foregoing.

I am, etc.,

DAVID MURRAY, JR.,
Subcollector Customs.

[Inclosure 6.]

Mr. McNutt to Mr. Tilton.

MALPEQUE, PRINCE EDWARD ISLAND, January 7, 1887.

SIR: I have the honor to acknowledge the receipt of your letter of the 29th December, covering statements made by Captain Jacobs, and now adjoin statement of facts as personally known by and communicated to me of wreck of the *Neskilita* on Malpeque Bar, on Sunday night, the 26th September last. Information reached me early on the following morning, and I at once proceeded to the harbor to see what assistance could be given in the case, when I met Captain Thornborne, of the *Neskilita*, and Captain Jacobs in company, and was informed by the latter that the crew were on board his vessel, and assured that everything that could be done for their comfort had been done. I was also given to understand that during the night the crew had abandoned their schooner and come in the harbor unassisted in their seine-boat, and boarded a Nova Scotia schooner lying in the harbor, and were the next morning invited by Captain Jacobs to make his vessel their home. I was also informed by Captain McLaren, commander of the Canadian cruiser *Critic*, that he also tendered his assistance, and was rather haughtily received by Captain Jacobs with the information that the crew were aboard his vessel and that he (Captain McLaren) did not think the case demanded him to force his assistance.

With regard to the wrecked material aboard of Captain Jacobs's vessel, I have only to say that this is the first intimation I have ever had of such material being aboard his vessel, except the crew's luggage, and that assuredly Captain Jacobs did not, so far as I can recollect, make any request of me whatever with regard to the landing of wrecked material.

With reference to the saving of material from the wrecked vessel, I would wish to say that I rendered the captain of the *Neskilita* all necessary assistance in procuring suitable men to do that work (and who were thus employed by him), and although I am aware that Captain Jacobs did accompany the captain of the *Neskilita* to the wreck, I can not say in what capacity or under what authority he did so.

So far as the assertion that the crew received the means to take them home from Captain Jacobs is concerned, I know nothing positive, except that he (Captain Jacobs) asked me if the Canadian Government would remunerate him for his attention to the crew, and feeling that I had nothing to do with him, I merely replied that I did not know. But I may say that shortly after the wreck occurred the captain of the *Neskilita* asked me if I could render them (the crew) any assistance in getting home, and I answered that I could not unless I was assured that they themselves were without the means of doing so, and that in any case I would have to telegraph to the department at Ottawa for instructions. Here the matter stopped, the captain making no further application.

With regard to the delay of ten days, said to be occasioned (Captain Jacobs) by reason of the shipwrecked crew, I may say that during the ten or fourteen days following on the said shipwreck we had an almost continuous period of stormy weather, with the exception of a couple or so of fine days, which were taken advantage of by the fishing fleet, and one at least by Captain Jacobs himself, but by all reports received by me resulting in little or no catches of mackerel.

These, so far as I can now recall them to memory, are the true facts in the case.

I am, etc.,

JAMES MCNUTT,
Subcollector.

[Inclosure 7.]

Mr. McLaren to Mr. Tilton.

GEORGETOWN, PRINCE EDWARD ISLAND, January 6, 1887.

DEAR SIR: Yours of the 29th ultimo to hand. In reference to the first part of the statement made by Captain Jacobs, I would say that he may have been off Malpeque at the time the wreck occurred, but I do not think he took the crew off; as, so far as

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Collector Customs.

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I could learn at the time, they came ashore in one of their own seine-boats and went first to a Nova Scotia vessel and afterwards on board the *Mollie Adams*.

On the morning after the wreck occurred I went on board the *Mollie Adams*, and was immediately told by Captain Jacobs that he had made all arrangements for the crew, and having secured a team, was going with the captain of the *Neskillita* to the custom-house to note a protest. As I could see by the conduct of both captains that I was not wanted, I returned to my own vessel. Afterwards, in the course of a conversation with the captain of the *Neskillita*, he informed me that he had sailed out of Gloucester for some time, and in the course of that time with Captain Jacobs.

As to the statement that he could not get a boarding-house for his crew, I think it is false, as the crew of one of the American vessels wrecked about the same time had no difficulty in getting the people to board them. Once while talking with Mr. McNutt, the collector of customs at Malpeque, he mentioned that the captain of the *Neskillita* had engaged to board at his place, and he expressed his surprise that he was not coming. Both Captain Jacobs and the captain of the *Neskillita* were committing a fraud in trying to get off with the seine of the wrecked vessel, as it belonged to the underwriters; and I think that it was the prospect of getting Captain Jacobs to get away with the seine that prevented the captain of the *Neskillita* from asking me for assistance. However, Captain Jacobs, on finding he could not carry out his fraud, presented a claim of \$10 for the salvage of the seine and gear, which sum was paid him by Mr. Lemuel Poole, Charlottetown, who was acting on behalf of the underwriters. It may be possible that Captain Jacobs staid at Malpeque after I sailed, but, if so, it was his own fault, as the crew of the *Neskillita* had gone home before then.

It is my opinion that Captain Jacobs need not have lost one hour of time, for during the time the *Neskillita's* crew were on board his vessel the fleet, with the exception of one or two small vessels, was anchored in Malpeque, and unable to put to sea owing to the heavy sea on the bar.

After the occurrence of the wreck, about the 20th September, Captain Jacobs cruised in the North Bay and on the Cape Breton coast, and not until the 24th October was he reported as passing through Canso bound home.

As to the paying of the crew's passage home, I can say nothing, except that if he did he did it voluntarily, as the captain of the *Neskillita* could have sent his crew home without his assistance.

Yours, etc.,

WM. McLAREN.

[Inclosure 8.]

Mr. Letsom to the deputy minister of fisheries, Ottawa.

CUSTOM-HOUSE, Port Medway, January 6, 1887.

Sir: In reply to your letter of the 30th ultimo, inclosing extract of statement made by Captain S. Jacobs, of the schooner *Mollie Adams*, I have to say that on the 25th October last, Captain Solomon Jacobs, of schooner *Mollie Adams*, reported at this office. His report is now before me, in which he swears that he called here for shelter and repairs and for no other purpose. After making his report and when about leaving the office, Captain Jacobs asked if I would allow him to purchase a half barrel of flour. I asked him if he was without provisions, and he replied that he was not, adding that he had a good supply of all kinds of provisions except flour, and enough of that to last him home unless he met with some unusual delay. I then told him that under the circumstances I could not give him permission to purchase the flour; but no threat was made about seizing his vessel or imposing any penalty whatever.

The above I am quite willing to substantiate under oath, and can produce a witness to the truth of the statement.

I am, etc.,

E. E. LETSOM,
Collector.

[Inclosure 9.]

Extract from the Boston, United States, Advertiser of November 19, 1886.—Gloucester politics.—An appearance of ballot-stuffing.—George Morse nominated for mayor.

GLoucester, November 13.

At a citizens' mass meeting held here this evening, Lawyer Tuft, chairman, to nominate a mayor, a committee, consisting of J. J. Whalen, Albert P. Babson, Capt. Solomon Jacobs, J. N. Dennison, and Edwin L. Lane, was appointed to count ballots.

S. Ex. 113—7

After much wrangling, one informal and then formal ballots were taken, when Mr. Dennison made a minority report, accusing Capt. Solomon Jacobs of stuffing the ballot-box. William T. Merchant counted the ballots while being cast, making 264, but the committee reported 312 cast, which tended to show that Jacobs had put in 48 illegally.

Much excitement prevailed, and a motion was made that he be dismissed from the committee. The chairman called for Jacobs to come forward and explain his action, but it was found that he had disappeared. He was in favor of David J. Robinson as candidate for mayor, but went over to William A. Pew, jr.

Another ballot was taken and Dr. George Morse received the nomination.

[Inclosure 10.]

Forty ninth Congress, second session. Senate Mis. Doc. No. 54.—In the Senate of the United States, February 8, 1887.—Ordered to be printed.]

Mr. Edmunds submitted the following communication from Spencer F. Baird, United States Commissioner of Fish and Fisheries:

UNITED STATES COMMISSION OF FISH AND FISHERIES,
Washington, D.C., February 5, 1887.

SIR: I forward herewith for your information a copy of a communication from Mr. R. Edward Earle, in charge of the Division of Fisheries of this Commission, accompanied by a list of New England fishing vessels which have been inconvenienced in their fishing operations by the Canadian authorities during the past season; these being in addition to the vessels mentioned in the revised list of vessels involved in the controversy with the Canadian authorities furnished to your committee on the 26th of January by the Secretary of State.

The papers containing the statements were received from the owners, masters, or agents of the vessels concerned, and though not accompanied by affidavits are believed to be correct.

Very, etc.,

SPENCER F. BAIRD,
Commissioner.

Hon. GEORGE F. EDMUNDS,
Chairman Committee on Foreign Relations, United States Senate.

[Inclosure 1 to inclosure 10.]

Mr. Earle to Mr. Baird.

UNITED STATES COMMISSION OF FISH AND FISHERIES,
Washington, D. C., February 5, 1887.

SIR: Some time since, at your request, I mailed circulars to owners or agents of all New England vessels employed in the food-fish fisheries. These called for full statistics of the vessels' operations during the year 1886, and in addition for statements of any inconvenience to which the vessels had been subjected by the recent action of the Canadian Government in denying to American fishing vessels the right to buy bait, ice, or other supplies in its ports, or in placing unusual restrictions on the use of its harbors for shelter.

A very large percentage of the replies to these circulars have already been received, and our examination shows that in addition to the vessels mentioned in the revised list transmitted by the Secretary of State to the Committee on Foreign Relations of the United States Senate on the 26th January, 1887, sixty-eight other New England fishing vessels have been subjected to treatment which neither the treaty of 1818 nor the principles of international law would seem to warrant.

I inclose for your consideration list of these vessels, together with a brief abstract of the statements of the owners or masters regarding the treatment received. The statements were not accompanied by affidavits, but are believed to be entirely reliable. The name and address of the informant are given in each instance.

Very, etc.,

R. EDWARD EARLE,
In charge Division of Fisheries.

[Inclosure 2 to inclosure 10.]

Partial list of vessels involved in the fisheries controversy with the Canadian authorities from information furnished to the United States Commissioner of Fish and Fisheries.

(Supplementing a list transmitted to the Committee on Foreign Relations, United States Senate, by the Secretary of State, 26th January, 1887.)

Eliza A. Thomes (schooner), Portland, Me.; E. S. Bibbs, master. Wrecked on Nova Scotia shore, unable to obtain assistance. Crew not permitted to land or to save any-

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thing until permission was received from captain of cutter. Canadian officials placed guard over fish saved, and everything saved from wreck narrowly escaped confiscation. (From statements of C. D. Thomas, owner, Portland, Me.)

Christina Ellsworth (schooner), Eastport, Me.; James Ellsworth, master. Entered Port Hastings, Cape Breton, for wood; anchored 10 o'clock and reported at custom-house. At 2 o'clock was boarded by captain of cutter *Hector* and ordered to sea, being forced to leave without wood. In every harbor entered was refused privilege of buying anything. Anchored under the lee of land in no harbor, but was compelled to enter at custom-house. In no two harbors were the fees alike. (From statements of James Ellsworth, owner and master, Eastport, Me.)

Mary E. Whorf (schooner), Wellfleet, Mass.; Simon Berrio, master. In July, 1886; lost seine off North Cape, Prince Edward Island, and not allowed to make any repairs on shore, causing a broken voyage and a long delay. Ran short of provisions, and being denied privilege of buying any on land had to obtain from another American vessel. (From statements of Freeman A. Snow, owner, Wellfleet, Mass.)

Stowell Sherman (schooner), Provincetown, Mass.; S. F. Hatch, master. Not allowed to purchase necessary supplies and obliged to report at custom-houses situated at distant and inconvenient places. Ordered out of harbors in stress of weather, namely, out of Cuscumpe Harbor, Prince Edward Island, nineteen hours after entry, and out of Malpeque Harbor, Prince Edward Island, fifteen hours after entry, wind then blowing too hard to admit of fishing. Returned home with broken trip. (From statements of Samuel T. Hatch, owner and master, Provincetown, Mass.)

Walter L. Rich (schooner), Wellfleet, Mass.; Obadiah Rich, master. Ordered out of Malpeque, Prince Edward Island, in unsuitable weather for fishing, having been in harbor only twelve hours; denied right to purchase provisions; forced to enter at custom-house at Port Hawkesbury, Cape Breton, on Sunday, collector fearing that vessel would leave before Monday and he would thereby lose his fee. (From statements of Obadiah Rich, owner and master, Wellfleet, Mass.)

Bertha D. Nickerson (schooner), Booth Bay, Me.; N. E. Nickerson, master. Occasioned considerable expense by being denied Canadian harbors to procure crew, and detained in spring while waiting for men to come from Nova Scotia. (From statements of Nickerson and sons, owners, Booth Bay, Me.)

Newell B. Hawes (schooner), Wellfleet, Mass.; Thomas C. Kennedy, master. Refused privilege of buying provisions in ports in Bay St. Lawrence, and in consequence obliged to leave for home with half a cargo. Made harbor at Shelburne, Nova Scotia, in face of storm at 5 p. m., and master immediately started for custom-house, 5 miles distant, meeting captain of cutter *Terror* on way, to whom he explained errand. On returning found two armed men from cutter on his vessel. At 7 o'clock next morning was ordered to sea, but refused to go in the heavy fog. At 9 o'clock the fog lifted slightly, and, though the barometer was very low and a storm imminent, vessel was forced to leave. Soon met the heavy gale, which split sails, causing considerable damage. Captain of *Terror* denied claim to right of remaining in harbor twenty-four hours. (From statements of T. C. Kennedy, part owner and master, Wellfleet, Mass.)

Helen F. Fredick (schooner), Cape Porpoise, Maine; R. J. Nunan, master. July 20, 1886, entered Port Latour, Nova Scotia, for shelter and water. Was ordered immediately to sea. (From statements of R. J. Nunan, owner and master, Cape Porpoise, Maine.)

Nellie M. Snow (schooner), Wellfleet, Mass.; A. E. Snow, master. Was not allowed to purchase provisions in any Canadian ports or to refit or land and ship fish, consequently obliged to leave for home with broken trip; not permitted to remain in ports longer than local Canadian officials saw fit. (From statements of J. C. Young, owner, Wellfleet, Mass.)

Gertrude Sumners (schooner), Wellfleet, Mass.; N. S. Snow, master. Refused privilege of purchasing provisions, which resulted in injury to voyage. Found harbor regulations uncertain; sometimes could remain in port twenty-four hours; again was ordered out in three hours. (From statement of N. S. Snow, owner and master, Wellfleet, Mass.)

Charles R. Washington (schooner), Wellfleet, Mass.; Jesse S. Snow, master. Master informed by collector at Ship Harbor, Cape Breton, that if he bought provisions, even if actually necessary, he would be subject to a fine of \$400 for each offense. Refused permission by the collector at Souris, Prince Edward Island, to buy provisions, and was compelled to return home 10th September, before close of fishing season. Was obliged to report at custom-house every time he entered the harbor, even if only for shelter. Found no regularity in the amount of fees demanded, this being apparently at the option of the collector. (From statements of Jesse S. Snow, owner and master, Wellfleet, Mass.)

John M. Ball (schooner), Provincetown, Mass.; N. W. Freeman, master. Driven out of Gulf of St. Lawrence to avoid fine of \$400 for landing two men in the port of Malpeque, Prince Edward Island. Was denied all supplies except wood and water in same port. (From statements of N. W. Freeman, owner and master, Provincetown, Mass.)

Zephyr (schooner), Eastport, Me.; Warren Pilk, master. Cleared from Eastport 31st May, 1886, under register for West Isles, New Brunswick, to buy herring. Collector refused to enter vessel, telling the captain that if he bought fish, which were plenty at the time, the vessel would be seized. Returned to Eastport, losing about a week, which resulted in considerable loss to owner and crew. (From statements of Guildford Mitchell, owner, Eastport, Me.)

Abdon Keene (schooner), Bremen, Me.; William C. Keene, master. Was not allowed to ship or land crew at Nova Scotia ports, and owner had to pay for their transportation to Maine. (From statements of William C. Keene, owner and master, Bremen, Me.)

William Keene (schooner), Portland, Me.; Daniel Kimball, master. Not allowed to ship a man, or to send a man ashore except for water at Liverpool, Nova Scotia, and ordered to sea as soon as water was obtained. (From statements of Henry Trefethen, owner, Peak's Island, Me.)

John Nye (schooner), Swan's Island, Me.; W. L. Joyce, master. After paying entry fees and harbor dues was not allowed to buy provisions at Molpeque, Prince Edward Island, and had to return home for same, making a broken trip. (From statements of W. L. Joyce, owner and master, Atlantic, Me.)

Asa H. Perere (schooner), Wellfleet, Mass.; A. B. Gore, master. Entered harbor for shelter; ordered out after twenty-four hours. Denied right to purchase food. (From statements of S. W. Kemp, agent, Wellfleet, Mass.)

Nathan Cleaves (schooner), Wellfleet, Mass.; P. E. Hickman, master. Ran short of provisions, and not being permitted to buy, left for home with a broken voyage. Customs officers at Port Mulgrave, Nova Scotia, would allow purchase of provisions for homeward passage, but not to continue fishing. (From statements of Parker E. Hickman, owner and master, Wellfleet, Mass.)

Frank G. Rich (schooner), Wellfleet, Mass.; Charles A. Gorham, master. Not permitted to buy provisions or to lie in Canadian ports over twenty-four hours. (From statements of Charles A. Gorham, owner and master, Wellfleet, Mass.)

Emmc. O. Curtis (schooner), Provincetown, Mass.; Elisha Rich, master. Not allowed to purchase provisions, and therefore obliged to return home. (From statements of Elisha Rich, owner and master, Provincetown, Mass.)

Pleiades (schooner), Wellfleet, Mass.; F. W. Snow, master. Driven from harbor within twenty-four hours after entering. Not allowed to ship or discharge men under penalty of \$400. (From statements of S. W. Snow, owner and master, Wellfleet, Mass.)

Charles F. Atwood (schooner), Wellfleet, Mass.; Michael Burrows, master. Captain was not permitted to refit vessel or to buy supplies, and when out of food had to return home. Found Canadians disposed to harass him and put him to many inconveniences; not allowed to land seine on Canadian shore for purpose of repairing same. (From statements of Michael Burrows, owner and master Wellfleet, Mass.)

Gertie May (schooner), Portland, Me.; J. Doughty, master. Not allowed, though provided with permit, to touch and trade, to purchase fish-bait in Nova Scotia, and driven from harbor. (From statements of Charles F. Guptill, owner, Portland, Me.)

Margaret S. Smith (schooner), Portland, Me.; Lincoln W. Jewett, master. Twice compelled to return home from Bay St. Lawrence with broken trip, not being able to secure provisions to continue fishing. Incurred many petty inconveniences in regard to customs regulations. (From statements of A. M. Smith, owner, Portland, Me.)

Elsie M. Smith (schooner), Portland, Me.; Enoch Bulger, master. Came home with a half fare, not being able to get provisions to continue fishing. Lost seine in a heavy gale rather than be annoyed by customs regulations when seeking shelter. (From statements of A. M. Smith, Portland, Me.)

Fannie A. Spurling (schooner), Portland, Me.; Caleb Parris, master. Subject to many annoyances and obliged to return home with a half-fare, not being able to procure provisions. (From statements of A. M. Smith, owner, Portland, Me.)

Carleton Bell (schooner), Booth Bay, Me.; Seth W. Eldridge, master. Occasioned considerable expense by being denied right to procure crew in Canadian harbors, and detained in spring while waiting for men to come from Nova Scotia. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)

Abbie M. Deering (schooner), Portland, Me.; Emery Gott, master. Not being able to procure provisions obliged to return home with a third of a fare of mackerel. (From statements of A. M. Smith, owner, Portland, Me.)

Cora Louisa (schooner), Booth Bay, Me.; Obed Harris, master. Could get no provisions in Canadian ports and had to return home before getting a full fare of fish. (From statements of S. Nickerson & Sons, Booth Bay, Me.)

Eben Dale (schooner), North Haven, Me.; R. G. Babbidge, master. Not permitted to buy bait, ice, or to trade in any way. Driven out of harbors, and unreasonable restrictions whenever near the land. (From statements of R. G. Babbidge, owner and master, Pulpit Harbor, Me.)

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Charles Haskell (schooner), North Haven, Me.; Daniel Thurston, master. Obligated to leave Gulf of St. Lawrence at considerable loss, not being allowed to buy provisions. (From statements of C. S. Staples, owner, North Haven, Me.)

Willie Parkman (schooner), North Haven, Me.; William H. Banks, master. Unable to get supplies while in Gulf of St. Lawrence, which necessitated returning home at great loss, with a broken voyage. (From statements of William H. Banks, owner and master, North Haven, Me.)

D. D. Geyer (schooner), Portland, Me.; John K. Craig, master. Being refused privilege of touching at a Nova Scotia port to take on resident crew already engaged, owner was obliged to provide passage for men to Portland at considerable cost, causing great loss of time. (From statements of J. H. Jordan, owner, Portland, Me.)

Good Templar (schooner), Portland, Me.; Elias Tarlton, master. Touched at La Have, Nova Scotia, to take on crew already engaged, but was refused privilege and ordered to proceed. The men being indispensable to voyage, had them delivered on board outside of 3-mile limit by a Nova Scotia boat. (From statements of Henry Trefethen, owner, Peak's Island, Me.)

Eddie Davidson (schooner), Wellfleet, Mass.; John D. Snow, master. On the 12th of June, 1886, touched at Cape Island, Nova Scotia, but was not permitted to take on part of crew. Boarded by customs officer, and ordered to sail within twenty-four hours. Not allowed to buy food in ports of Gulf St. Lawrence. (From statements of John D. Snow, owner and master, Wellfleet, Mass.)

Alice P. Higgins (schooner), Wellfleet, Mass.; Alvin W. Cobb, master. Driven from harbors twice in stress of weather. (From statements of Alvin W. Cobb, master, Wellfleet, Mass.)

Cynosure (schooner), Booth Bay, Me.; L. Rush, master. Was obliged to return home before securing a full cargo, not being permitted to purchase provisions in Nova Scotia. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)

Naiad (schooner), Lubec, Me.; Walter Kennedy, master. Presented frontier license (heretofore acceptable) on arriving at St. George, New Brunswick, but collector would not recognize same. Was compelled to return to Eastport and clear under register before being allowed to purchase herring, thus losing our trip. (From statements of Walter Kennedy, master, Lubec, Me.)

Louisa A. Grant (schooner), Provincetown, Mass.; Joseph Hatch, jr., master. Took permit to touch and trade. Arrived at St. Peters, Cape Breton, in afternoon of the 19th May, 1886. Entered and cleared according to law. Was obliged to take inexperienced men, at their own prices, to complete fishing crew to get to sea before the arrival of a seizing officer, who had started from Straits of Canso at 5 o'clock same afternoon in search of vessel, having been advised by telegraph of shipping of men. (From statements of Joseph Hatch, jr., owner and master, Provincetown, Mass.)

Lottie E. Hopkins (schooner), Vinal Haven, Me.; Emery J. Hopkins, master. Refused permission to buy any article of food in Canadian ports. Obtained shelter in harbors only by entering at custom-house. (From statement of Emery J. Hopkins, owner and master, North Haven, Me.)

Florine P. Nickerson (schooner), Chatham, Mass.; Nathaniel E. Eldridge, master. Engaged fishermen for vessel at Liverpool, Nova Scotia, but action of Canadian Government necessitated their transportation to the United States, and loss of time to vessel while awaiting their arrival; otherwise would have called for them on way to fishing grounds. Returning touched at Liverpool, but immediately on anchoring Canadian officials came aboard and refused permission for men to go ashore. Captain at once signified his intention of immediately proceeding on passage, but officer prevented his departure until he had reported at custom-house, vessel being thereby detained two days. (From statements of Kendrick & Bourse, owners, South Harwich, Mass.)

B. B. B. (sloop), Eastport, Me.; George W. Copp, master. Obligated to discontinue business of buying sardine herring in New Brunswick port, for Eastport canneries, as local customs regulations were during the season of 1886 made so exacting that it was impossible to comply with them without risk of the fish becoming stale and spoiled by detention. (From statements of George W. Copp, master, Eastport, Me.)

Sir Knight (schooner), Southport, Me.; Mark Rand, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing grounds. (From statements of William T. Maddocks, owner, Southport, Me.)

Uncle Joe (schooner), Southport, Me.; J. W. Pierce, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing grounds. (From statements of William T. Maddocks, owner, Southport, Me.)

Willie G. (schooner), Southport, Me.; Albert F. Orne, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing grounds. (From statements of William T. Maddocks, owner, Southport, Me.)

Lady Elgin (schooner), Southport, Me.; George W. Pierce, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing grounds. (From statements of William T. Maddocks, owner, Southport, Me.)

John H. Kennedy (schooner), Portland, Me., David Dougherty. Called at a Nova Scotia port for bait but left without obtaining same, fearing seizure and fine, returning home with a broken voyage. At a Newfoundland port was charged \$16 light-house dues, giving draft on owners for same, which, being excessive, they refused to pay. (From statement of E. G. Willard, owner, Portland, Me.)

Ripley Ropes (schooner), Southport, Me., C. E. Hare master. Vessel ready to sail when telegram from authorities at Ottawa refused permission to touch at Canadian ports to ship men; consequently obliged to pay for their transportation to Maine, and vessel detained while awaiting their arrival. (From statements of Freeman Orne & Son, owners, Southport, Me.)

Jennie Armstrong (schooner), Southport, Me., A. O. Webber master. Vessel ready to sail when telegram from authorities at Ottawa refused permission to touch at Canadian ports to ship men; consequently obliged to pay for their transportation to Maine, and vessel detained while awaiting their arrival. (From statements of Freeman Orne & Son, owners, Southport, Me.)

Vanguard (schooner), Southport, Me., C. C. Dyer master. Vessel ready to sail when telegram from authorities refused permission to touch at Canadian ports to ship men; consequently obliged to pay for their transportation to Maine, and vessel detained while awaiting their arrival. (From statements of Freeman Orne & Son, owners, Southport, Me.)

Electric Flash (schooner), North Haven, Me., Aaron Smith master. Unable to obtain supplies in Canadian ports, and obliged to return home before obtaining full cargo. (From statements of Aaron Smith, master and agent, North Haven, Me.)

Daniel Simmons (schooner), Swan's Island, Me., John A. Gott master. Compelled to go without necessary outfit while fishing in Gulf of St. Lawrence. (From statements of Mr. Stimpson, owner, Swan's Island, Me.)

Grover Cleveland (schooner), Boston, Mass., George Lake-man master. Compelled to return home with only partial fare of mackerel, being refused supplies in Canadian ports. (From statements of B. F. DeButts, owner, Boston, Mass.)

Andrew Burnham (schooner), Boston, Mass., Nathan F. Blake master. Not allowed to buy provisions or to land and ship fish to Boston, thereby losing valuable time for fishing. (From statements of B. F. DeButts, owner, Boston, Mass.)

Harry G. French (schooner), Gloucester, Mass., John Chisholm master. Refused permission to purchase provisions or to land cargo for shipment to the United States. (From statements of John Chisholm, master and owner, Gloucester, Mass.)

Colonel J. H. French (schooner), Gloucester, Mass., William Harris master. Was refused permission to purchase any supplies or to forward fish to the home port by steamer, causing much loss of time and money. (From statements of John Chisholm, owner, Gloucester, Mass.)

W. H. Wellington (schooner), Gloucester, Mass., D. S. Nickerson master. Was refused permission to purchase any supplies or to forward fish to the home port by steamer, causing much loss of time and money. (From statements of John Chisholm, owner, Gloucester, Mass.)

Ralph Hodgdon (schooner), Gloucester, Mass., Thomas F. Hodgdon master. Was refused permission to purchase any supplies or to forward fish to the home port by steamer, causing much loss of time and money. (From statements of John Chisholm, owner, Gloucester, Mass.)

Hattie Evelyn (schooner), Gloucester, Mass., James A. Cromwell master. Not allowed to buy any provisions in any provincial ports, and thereby compelled to return home during the fishing season, causing broken voyage and great loss. (From statements of James A. Cromwell, owner and master, Gloucester, Mass.)

Emma W. Brown (schooner), Gloucester, Mass., John McFarland master. Was forbidden buying provisions at any provincial ports, and thereby lost three weeks' time and was compelled to return home with only part of cargo. (From statement of John McFarland, master, Gloucester, Mass.)

Mary H. Thomas (schooner), Gloucester, Mass., Henry B. Thomas master. Prohibited from buying provisions, and, in consequence, had to return home before close of fishing season. (From statements of Henry B. Thomas, owner and master, Gloucester, Mass.)

Hattie B. West (schooner), Gloucester, Mass., C. H. Jackman master. Prevented from buying provisions to enable vessel to continue fishing; two of crew deserted in a Canadian port, and captain went ashore to report at custom-house and to secure return of men; was delayed by custom-officer not being at his post and ordered to see by first officer of cutter *Howlett* before having an opportunity of reporting at custom-house or of finishing business; had to return and report on same day or be subject to fine. Prevented from shipping men at same place. At Port Hawkesbury, Nova

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Scotia, while on homeward passage, not allowed to take on board crew of seized American fishing schooner *Morro Castle*, who desired to return home. (From statements of C. H. Jackman, master, Gloucester, Mass.)

Ethel Maud (schooner), Gloucester, Mass., George H. Martin master. Provided with a United States permit to touch and trade. Entered Tignish, Prince Edward Island, to purchase salt in barrels; was prohibited from buying anything. Collector was offered permit, but declared it to be worthless, and would not examine it; vessel obliged to return home for articles mentioned. On second trip was not permitted to get any food. (From statements of George H. Martin, owner and master, East Gloucester, Mass.)

John W. Bray (schooner), Gloucester, Mass., George McLean master. On account of extreme prohibitory measures of the Canadian government in refusing shelter and supplies, and other conveniences, was obliged to abandon her voyage and come home without fish. (From statements of John F. Wonson & Co., owners, Gloucester, Mass.)

Henry W. Longfellow (schooner), Gloucester, Mass., W. W. King master. Obligated to leave Gulf of St. Lawrence with only 62 barrels of mackerel, on account of restrictions imposed by Canadian government in preventing captain from procuring necessary supplies to continue fishing. (From statements of John F. Wonson & Co., owners, Gloucester, Mass.)

Rushlight (schooner), Gloucester, Mass., James L. Kenney master. Compelled to leave Gulf of St. Lawrence with only 90 barrels of mackerel, because of restrictions imposed by Canadian government in prohibiting captain from purchasing supplies needed to continue fishing. (From statements of John F. Wonson & Co., owners, Gloucester, Mass.)

Belle Franklin (schooner), Gloucester, Mass., Henry D. Kendrick master. Obligated to leave Gulf of St. Lawrence with 156 barrels of mackerel, on account of restrictions imposed by Canadian government in denying the captain the right to procure necessary supplies to continue fishing. (From statements of John F. Wonson & Co., owners, Gloucester, Mass.)

Neponset (schooner), Boston, Mass., E. S. Frye master. On 27th August, 1886, anchored in Port Hawkesbury, Cape Breton, and immediately reported at custom-house; being short of provisions, master asked collector for permits to buy, but was twice refused. The master expressing his intention of seeing the United States consul at Port Hastings, Cape Breton, 3 miles distant, the customs officer forbade him landing at that port to see the consul; he did so, however, saw the consul, but could get no aid, the consul stating that if provisions were furnished, the vessel would be seized. Master being sick, and wishing to return home by rail, at the suggestion of the consul, he landed secretly, and traveled through the woods to the station, 3 miles distant. (From statements of E. S. Frye, owner and master, Boston, Mass.)

[Inclosure 11.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, OTTAWA, April 2, 1887.

SIR: With reference to Mr. Stanhope's dispatch of the 16th December last, transmitting a copy of a letter from the foreign office, with its inclosures, respecting the alleged improper conduct of authorities in the Dominion in dealing with the United States fishing vessels *Laura Sayward* and *Jennie Seaverns*, and requesting to be furnished with a report on these cases for communication to the United States Government, I have the honor to forward herewith a copy of an approved minute of the privy council of Canada, embodying a report of my minister of marine and fisheries on the subject.

I have much pleasure in calling your attention to the penultimate paragraph of that report, from which you will observe that it will, in the opinion of my Government, be possible, in cases like that of the *Jennie Seaverns*, where a foreign fishing vessel has entered a Canadian harbor for a lawful purpose and in the pursuance of her treaty rights, to exercise, the necessary supervision over the conduct of her master and crew, and to guard against infractions of the customs law and other statutes binding upon foreign vessels while in Canadian waters, without placing an armed guard on board or preventing reasonable communication with the shore.

My advisers are, in regard to such matters, fully prepared to recognize that a difference should be made between the treatment of vessels *bona fide* entering a Canadian harbor for shelter or repair, or to obtain wood and water, and that of other vessels of the same class entering such harbors ostensibly for a lawful purpose, but really with the intention of breaking the law.

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[Inclosure 12.]

Report of a committee of the honorable the privy council for Canada approved by his excellency the governor-general in council on the 23d March, 1887.

The committee of the privy council have had under consideration a dispatch dated the 16th December, 1886, from the right honorable the secretary of state for the Colonies, transmitting a copy of a letter from the foreign office covering a copy of a dispatch from Her Majesty's minister at Washington inclosing notes which he has received from Mr. Bayard, United States Secretary of State, protesting against the conduct of the Dominion authorities in their dealings with the United States fishing vessels *Laura Sayward* and *Jennie Seaverns*, and requesting to be furnished with a report on the subject for communication to the Government of the United States.

The minister of marine and fisheries, to whom the dispatch and inclosures were referred for immediate report, observes that Mr. Bayard takes exception to the "inhospitable and inhuman conduct" of the collector of customs at the port of Shelburne, Nova Scotia, "refusing to allow Captain Rose, of the *Laura Sayward*, to buy sufficient food to last himself and crew on their homeward voyage, and complains of the action of the collector in "unnecessarily retaining" the papers of the vessel. Mr. Bayard bases his representation upon the annexed declaration made by Captain Rose, but supported by no other testimony.

The minister states that immediately on the receipt of the dispatch above mentioned a copy of the charges was forwarded to the collector at the port of Shelburne, and his statement in reply thereto is annexed.

The minister believes that Collector Atwood's statement is a reasonable and sufficient answer to the allegations made by the captain of the *Sayward*, and leaves no ground of justification for the strong language used by Mr. Bayard in his note to Sir L. Sackville West.

The minister further observes that, with reference to the *Jennie Seaverns*, Mr. Bayard complains of the conduct of Captain Quigley, of the *Terror*, in preventing the captain of the *Jennie Seaverns* from landing to visit his relations in Liverpool, Nova Scotia, and in forbidding his relatives to visit him on board his vessel, and in placing a guard upon the *Seaverns* while she was in port. These complaints are based upon the affidavit of Captain Tupper, of the *Seaverns*, a copy of which is attached. The statements of Captain Quigley, and his first officer, Bennett, are submitted in reply, and seem to afford ample proof that no violence or injustice was done to the fishing schooner.

The minister is of the opinion that the captain of the *Jennie Seaverns* has nothing to complain of. He came in solely for shelter, and this was not denied him. He was requested to report at the customs, with which request he, upon his own evidence, willingly complied.

The other precautions taken by Captain Quigley were simply to insure that, while shelter was being had, the provisions of the convention and of the customs law were not violated.

The minister, however, while assured that the vessel in question suffered no deprivation of or interference with its rights as defined by the convention of 1818, is of opinion that, in pursuance of the spirit of uniform kindly interpretation of the law, which it has been the constant aim of the government of Canada to exemplify in its dealings with United States fishermen, it is possible for the officers in charge of the cruisers to efficiently guard the rights of Canadian citizens and enforce the provisions of the law without in such cases as the above finding it necessary to place an armed guard on board the fishing vessel, or preventing what may be deemed reasonable communication with the shore.

The committee, concurring, in the report of the minister of marine and fisheries, recommend that your excellency be moved to transmit a copy of this minute to the right honorable the secretary of state for the colonies for the purpose of communication to the Government of the United States.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council Canada.

[Inclosure 13.]

Deposition of Medeo Rose.

I, Medeo Rose, master of schooner *Laura Sayward*, of Gloucester, being duly sworn, do depose and say: That on Saturday, the 2d October, being then on Western Bank, on a fishing trip, and being short of provisions, we hove up anchor and started for home. The wind was blowing almost a gale from the northwest, and, being almost dead

ahead, we made slow progress on our voyage home. On Tuesday, the 5th October, we made Shelburne, Nova Scotia, and arrived in that harbor about 8 p. m. on that day, short of provisions, water, and oil to burn. On Wednesday I sailed for the inner harbor of Shelburne, arriving at the town about 4 p. m. On going ashore I found the custom-house closed, and hunted up the collector and entered my vessel, and asked permission from him to buy 7 pounds of sugar, 3 pounds of coffee, and 1 bushel of potatoes, and 2 pounds butter or lard or pork, and oil enough to last us home, and was refused.

I stated to him my situation, short of provisions, and a voyage of 250 miles before, and pleaded with him for this slight privilege, but it was of no avail. I then visited the American consul and asked his assistance, and found him powerless to aid me in this matter. The collector of customs held my papers until the next morning, although I asked for them as soon as I found I could not buy any provisions, say about one and a half hours after I entered, but he refused to give them to me until the next morning. Immediately on receiving my papers on Thursday morning I started for home, arriving on Sunday. I think the treatment I received harsh and cruel, driving myself and crew to sea with a scant supply of provisions, we having but a little flour and water, and liable to be buffeted for days before reaching home.

MEDEO ROSE.

MASSACHUSETTS, ESSEX, ss:

Personally appeared Medeo Rose and made oath to the truth of the above statement before me.

[SEAL.]

AARON PARSONS,
Notary Public.

OCTOBER 13, 1886.

[Inclosure 14.]

Mr. Atwood to Mr. Johnson.

CUSTOM-HOUSE, SHELburne, January 5, 1887.

SIR: With reference to the statement by Medeo Rose, master of the schooner *Laura Sawyer*, I beg to say that in many particulars it is not true and is very unjust. The custom-house was not closed, as stated. Office hours are supposed to be from 9 a. m. to 4 p. m., but masters of vessels, American fishermen particularly, are allowed to report their vessels inward and outward, and obtain clearances at any hour between 6 a. m. and 11 p. m. (Sundays excepted), and the office is always open. On the 6th October last I left at 4 p. m., and went to an agricultural exhibition, not an eighth of a mile distant—say a three minutes' walk—and left word at the office to tell any one who called where I could be found. I had been on the grounds about fifteen minutes when Captain Rose put in an appearance, and I at once came to the office, and he reported his vessel, stated that he was from the bank bound home, and came in to fill water, and wanted provisions, as follows, viz: 7 pounds of sugar, 3 pounds of coffee, 1 bushel of potatoes, and 2 pounds of butter; this was all. I took a memorandum and attached to his inward report, and oil is not mentioned; stated that he had plenty of flour, fish, and other provisions sufficient for voyage home.

I gave him permission to fill water at once; but as the treaty made no provision for purchase of supplies, I would telegraph the department at Ottawa, and no doubt it would be allowed. Captain Rose expressed his willingness to remain until a reply was received. He called at the office next morning (Thursday) at 6.30 a. m., and finding I had not received a reply, said as the wind was fair and a good breeze, he would not wait longer and would take a clearance, which I gave him. I told him an answer to telegram would probably be received by 10 a. m. I did not consider it a case of actual distress by any means, as by the master's own statement he had plenty of other provisions, and all that he really and actually needed was to fill water.

The statement that I held his papers, although he asked for them, etc., and that I refused to give them to him until next morning, is all false. He did not ask further until next morning, when he got his clearance. The statement that the treatment he received was harsh and driving him to sea having little water and flour, etc., is all untrue, as what I have already stated will prove. Captain Medeo Rose was here with his vessel on the 23d November last, and entered his vessel and obtained clearance at 8 in the evening; was here again on the 27th November and remained five days for repairs, and nothing was said by him of the "inhuman conduct" or "harsh treatment" on the part of the collector towards him.

The above is a plain statement of the facts, and many of the statements can be corroborated by the American consul of this port if referred to him.

I am, etc.,

W. W. ATWOOD,
Collector.

[Inclosure 15.]

Deposition of Joseph Tupper.

I, Joseph Tupper, master of the schooner *Jennie Seaverns*, of Gloucester, being duly sworn, do depose and say: That on Thursday, the 28th October, while on my passage home from a fishing trip, the wind blowing a gale from southeast and a heavy sea running, I was obliged to enter the harbor of Liverpool, Nova Scotia, for shelter. Immediately on coming to anchor was boarded by Captain Quigley, of Canadian cruiser *Terror*, who ordered me to go inshore at once and report at the custom-house, to which I replied that such was my intention. He gave me permission to take two men in the boat with me, but they must remain in the boat and must not step on shore. I asked Captain Quigley if I could, after entering, visit some of my relations who resided in Liverpool and whom I had not seen for many years. This privilege was denied me. After entering, having returned to my vessel, some of my relatives came to see me off. When Captain Quigley saw their boat alongside of my vessel he sent an officer and boat's crew, who ordered them away, and at sundown he placed an armed guard on board our vessel, who remained on board all night, and was taken off just before we sailed in the morning.

I complied with the Canadian laws, and had no intention or desire to violate them in any way; but to be made a prisoner on board my own vessel, and treated like a suspicious character, grates harshly upon the feelings of an American seaman, and I protest against such treatment, and respectfully ask from my own Government protection from such unjust, unfriendly, and arbitrary treatment.

JOSEPH TUPPER.

MASSACHUSETTS, ESSEX, ss:

Personally appeared Joseph Tupper, and made oath to the truth of the above statement before me,

AARON PARSONS,
Notary Public.

NOVEMBER 4, 1886.

[Inclosure 16.]

Mr. Quigley to Major Tilton.

NEWCASTLE, January 19, 1887.

SIR: In reference to the American schooner *Jennie Seaverns* of Gloucester, I find she arrived on Thursday, the 28th October, as stated in his complaint, at Liverpool, Nova Scotia, and after she anchored I sent Chief Officer Bennett on board with instructions, telling him what the law was, so that he would not do anything through ignorance of it, and get his vessel in trouble. These instructions were to report his vessel at the customs before sailing, and to take two of his crew and boat with him when he did go for that purpose, but the rest of his crew were not to go on shore, and that after he reported no person from his vessel was to go on shore, as he got all he put in for, viz., shelter; and he reported his vessel putting in for that purpose and for no other; not for the purpose of letting his crew on shore.

The boat that was ordered from his vessel was from shore, and was not allowed alongside of these vessels, as it gave the crews a chance to get ashore with them, to smuggle provisions alongside, so they were ordered off in all cases. (See chief officer's statement regarding the men who rowed the captain on shore.)

I never prevented the men who went ashore with the masters of vessels from landing and going with the masters to the custom-house if they wished, nor gave instructions to prevent them.

I placed two watchmen on board this vessel, as I did in all other cases, to prevent them from breaking the law in any respect through the night, and they were taken off in the morning before he sailed.

It is not true that I boarded this vessel as stated. I never spoke to him. There were two other American seiners in at the same time and were treated in the same way, less the watchmen, which were not required in their case, as they were close to me and I could see what was done on board them at all times from my vessel. These are the facts.

I have, etc.,

THOMAS QUIGLEY.

[Inclosure 17.]

Deposition of Albert Bennett.

I, Albert Bennett, late first officer of the Dominion cutter *Terror*, Captain Quigley remembrance boarding the American seiner *Jennie Seaverns*, of Gloucester, United States, at the port of Liverpool, Nova Scotia, on the 28th October last past; boarded her

ordered Captain Tupper to report to the customs at Liverpool aforesaid, which he did, taking with him two men in his boat. Never told Captain Tupper not to allow his men to leave his boat while on shore; further, Captain Tupper, to the best of my knowledge and belief, never intimated to me that he had friends or relatives that he wished to visit in Liverpool, Nova Scotia.

Seeing a boat alongside, I went on board and ordered them away. Captain Tupper told me he did not know the visitors, and further, did not wish them on board his vessel.

Further, during the time the *Jennie Seaverns* was in the harbor of Liverpool, Nova Scotia, Captain Quigley never was on board her, I boarding her and carrying out his instructions to me.

ALBERT BENNETT,
Late First Officer Cutler Terror.

HOPEWELL CAPE, N. B., January 14, 1887.

No. 339.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, May 17, 1887. (Received May 18.)

SIR: With reference to my note of the 25th ultimo and to your reply of the 7th instant, I have the honor to inform you that Her Majesty's Government intimate that the intending emigrants are not paupers, but crofters, whose passages are only partly paid from public funds, and that Her Majesty's Government would be glad to know whether this affects in any way the tenor of your above-mentioned note.

I have, etc.,

L. S. SACKVILLE WEST.

No. 340.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, May 19, 1887.

SIR: I have the honor to acknowledge the receipt, yesterday, of your note of the 17th instant in response to my notes of the 11th of November, 1st December, and 27th of January last, respecting the cases of the United States fishing vessels *Mollie Adams*, *Laura Sayward*, *Jennie Seaverns*, and *Sarah H. Prior*.

I have, etc.,

T. F. BAYARD.

THOMAS QUIGLEY.

Mr. Captain Quigley
Master, United States
past; boarded her

No. 342.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, July 18, 1887. (Received July 19.)

SIR: In your note of the 11th of November last, inclosing copies of the statements with affidavits from Captain Medeo Rose, master of the schooner *Laura Sayward*, of Gloucester, Mass., you state that these papers impressively describe the "inhospitable" and "inhuman" conduct "of the collector of the port of Shelburne, Nova Scotia, in refusing to allow Captain Rose to buy sufficient food for himself and crew to take them home, besides unnecessarily retaining his papers, and thus preventing him, with a wholly inadequate supply of provisions, from proceeding on his voyage." This note, I observe, appears in the papers relating to the foreign relations of the United States transmitted to Congress with the President's message, 1886 (No. 231, page 425.)

I have now the honor to inform you that I am instructed by the Marquis of Salisbury to communicate to you the inclosed copy of a dispatch from the governor-general of Canada, together with copy of an approved minute of the privy council, to which is appended a letter from the collector of customs at Shelburne, inclosing a declaration made by Captain Rose, in which he states that the statements made by him in the affidavit alluded to in your above-mentioned note *are all untrue*.

In communicating these papers to you I am further instructed to ask whether the United States Government have any observations to make thereupon.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

Colonial office to foreign office. (Received June 17.)

DOWNING STREET, June 17, 1887.

SIR: With reference to the letter from this department of the 27th April, relating to the treatment of the United States fishing vessels *Laura Sayward* and *Jenny Saverna*, I am directed by Secretary Sir Henry Holland to transmit to you, to be laid before the Marquis of Salisbury, for such action as he may think proper to take upon it, a copy of a dispatch from the governor-general of Canada, with an affidavit by the master of the *Laura Sayward*.

I am, etc.,

JOHN BRAMSTON.

[Inclosure 2.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, TORONTO, May 20, 1887.

SIR: With reference to previous correspondence on the subject of the alleged ill-treatment of the United States fishing vessel, *Laura Sayward* and *Jennie Seaverns*, and with especial reference to the affidavit purporting to have been sworn to by Capt. Medeo Rose, of the first-named vessel, copy of which formed an inclosure in Mr. Stanhope's dispatch of the 16th December last, I have the honor to forward herewith a certified copy of an approved minute of my privy council, to which is appended a letter from the collector of customs at Shelburne, inclosing a declaration made by Captain Rose, in which he states that the statements alleged to have been made by him in that affidavit "are all untrue."

I have, etc.,

LANSDOWNE.

[Inclosure 3.]

Report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general in council on May 16, 1887.

On a report dated the 10th May, 1887, from the minister of marine, and fisheries, submitting, with reference to his report, approved in council on the 23d March last, as to the alleged ill-treatment of the United States fishing vessels *Laura Sayward* and *Jennie Seaverns*, and to the affidavit of Capt. Medeo Rose, of the first-named vessel, the copy of a letter from the collector of customs at Shelburne, Nova Scotia, dated the 20th ultimo, together with an affidavit from Captain Rose, herewith, in which it will be observed that he not only bears testimony to the generous treatment that had been extended to him when at the port of Shelburne on previous occasions, but also declares that the statements made in the affidavit of the 15th October last, purporting to be sworn to by him, and which affidavit formed the basis of a dispatch from Mr. Bayard, the United States Secretary of State, protesting against the inhuman and inhospitable conduct of the collector of customs at Shelburne, Nova Scotia, to use Captain Rose's own words, "are all untrue."

The committee recommend that your excellency be moved to forward a copy of this minute, together with copies of the papers mentioned, to the right honorable the secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council, Canada.

[Inclosure 4.]

Mr. Atwood to commissioner of customs, Ottawa.

CUSTOM-HOUSE, SHELBURNE, April 20, 1887.

SIR: With reference to my letter of the 5th January last and a statement made by Medeo Rose, of schooner *Laura Sayward*, a copy of which was sent me from your department for my report thereon, I beg to state that Captain Rose, with his vessel, is now lying off Sandy Point. He reported and obtained clearance yesterday on board Dominion cutter *Triumph*. On being questioned by Captain Lorway relative to the statement made in October last, he said much of it was untrue, and denied having made it. Inclosed please find a statement signed by Captain Rose in my presence at Sandy Point, sworn to and witnessed by Capt. John Purney, justice of the peace. He made no objection at all to signing it, and admits that this statement is true in every particular. Will you kindly have it forwarded to John Tilton, esq., deputy minister of fisheries?

I am, etc.,

W. W. ATWOOD,
Collector.

JOHN BRAMSTON.

[Inclosure 5.]

Declaration of the captain of the Laura Sayward.

I, Medeo Rose, master of the schooner *Laura Sayward*, of Gloucester, do solemnly declare and say that on the 6th October last I arrived at the port of Shelburne, Nova Scotia, and reported my vessel at the custom-house some time after 4 p. m.

Stated to the collector that I was from Western Banks, bound home, and required provisions, as follows, viz: 7 pounds of sugar, 3 pounds of coffee, 1 bushel of potatoes, 2 pounds of butter, and to fill water. This was all. The collector told me to fill the water, but as there was no provision made in the treaty for the purchase of supplies or stores, he would telegraph the department at Ottawa at once; that no doubt they would be allowed; and I consented to wait until the next morning for a reply.

I called at the custom-house early the next morning, before 7 o'clock; stated that, as the wind was fair and blowing a strong breeze, I would not wait for a reply to telegram, but take a clearance, which the collector gave me. I was treated kindly, allowed to enter my vessel after customs hours, and a clearance granted me next morning before the office was supposed to be opened. I was at the port again in November, on my way to the banks, and the collector allowed me to report my vessel inwards and outwards and gave me a clearance at 8 in the evening.

The statements purporting to have been made by me to the effect that the collector refused to give me my papers when I asked for them, also that this treatment towards me was harsh and cruel, driving myself and crew to sea, having but little flour and water, etc., are all untrue.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an act of Parliament entitled "An act for the suppression of voluntary and extrajudicial oaths."

MEDEO ROSE.

Taken and declared before me, at Sandy Point, this 20th day of April, A. D. 1887.

JOHN PURNEX,

Justice of the Peace.

No. 344.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,

Washington, July 19, 1887.

SIR: I have the honor to acknowledge your note, dated yesterday and received to-day, inclosing a copy of the declaration of Captain Medeo Rose, master of the schooner *Laura Sayward*, of Gloucester, Mass., made on April 12 last, at Sandy Point, before a justice of peace, apparently in contradiction of the statement made by the same party under oath on October 13 last.

This document will be instantly made the subject of investigation, and the observations of this Government thereon, as suggested by your note, will be communicated to you as soon as information on the matter shall have been received from the collector of customs at Gloucester, through whom the original affidavits of Captain Rose were forwarded to this Department.

Accept, etc.,

T. F. BAYARD.

No. 352.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,

Washington, October 31, 1887.

SIR: On the 19th of July last I had the honor to receive from you a letter, dated the day previous, inclosing a printed copy of a declaration made by Medeo Rose, formerly master of the schooner *Laura Say-*

ward, of Gloucester, Mass., in which he controverts certain statements theretofore made by him under oath, in relation to his treatment by Mr. Atwood, collector of customs at Shelburne, Nova Scotia, on the 13th of October.

Upon receiving your letter I at once communicated its contents to the collector of the port of Gloucester, Mass., through whom the original complaint had been forwarded to this Department.

To-day, for the first time, I was informed that on the 5th of August last a reply and sworn statement, by way of explanation of this variance between his affidavit of October 13, 1886, and his subsequent declaration at Sandy Point, Nova Scotia, dated April 20, 1887, had been in my absence received at this Department, and by inadvertence not laid before me until to-day.

I therefore now inclose a copy of the affidavits of Captain Rose and Augustus Rogers, made at Gloucester, Mass., on August 3 last, before a notary public, by which it appears that his declaration of April 20, 1887, was not voluntary, but was obtained from him by the collector, Atwood through fear and intimidation, under circumstances fully stated.

I should transmit the documents without further comment, but that, in closing your note to me of July 18 last, you stated that you were further "instructed to ask whether the United States Government have any observations to make thereupon."

In my reply to you on the 19th of July, I promised to comply with your request, and for that reason I now remark that the incident which has been the subject of this correspondence affords but another illustration and additional evidence, if any were needed, of the unwisdom of imperiling the friendly relations of two kindred and neighboring countries by intrusting the interpretation and execution of a treaty between them to the discretion of local and petty officials, and vesting in them powers of administration wholly unwarranted and naturally prolific of the irritations which wise and responsible rulers will always seek to avoid.

On the eve of a negotiation touching closely the honor and interests of two great nations, I venture to express the hope that the anticipated result of our joint endeavors to harmonize all differences may render it hereafter impossible to create a necessity for those representing our respective Governments to be called upon to consider such questions as are presented in the case of the *Laura Sayward*.

I have, etc.,

T. F. BAYARD.

[Inclosure.]

Affidavits of Capt. Medeo Rose and Augustus Rogers.

I, Medeo Rose, of Gloucester, being under oath, do depose and say, that I was master of the schooner *Laura Sayward* during the year 1886, and that I am now master of the schooner *Gleaner* of Gloucester.

On April 18, 1887, I went into the lower harbor of Shelburne, Nova Scotia, in said schooner *Gleaner* for shelter and water.

On the morning of April 19, Mr. Atwood, the collector of customs, with two men wearing badges, which I supposed were Government badges, came on board. Their appearance filled me with fear, for I felt some trouble must be in store for me when Collector Atwood would leave his office and come so far (about 4 miles) to board my vessel. I invited him into the cabin, where he showed me a copy of my statement of October 13, 1886, in regard to the treatment I received from him when in schooner *Laura Sayward* (October 5, 1886), and asked me if I made that statement. I told him I did. Well, said he, everything in that statement is false. I told him my statement was true. He then produced a prepared written statement, which he read to me, which

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T. BAYARD.

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stated that my statement of October 13 was untrue, and told me I must go on shore and sign it. Being nervous and frightened, and fearing trouble if I refused, I went on shore with him, to the store of Mr. Purney, and before Mr. Purney signed and swore to the statement.

On the afternoon of the same day, realizing the wrong I had done, I hired a team and, with one of my crew (Augustus Rogers), went to the custom-house and asked Collector Atwood to read to me the statement I had signed. He did so, and I again told him it was wrong and that my first statement was true.

He said I did not ask for all the articles mentioned in my first statement; that he did not refuse me my paper, and also that that statement might be the cause of his removal from his office. I told him I did not want to injure him, and I did not want to make myself out a liar at Washington.

About the 3d day of June last I went into Shelburne again solely to get a copy of the last statement. I went to the custom-house, taking the same man (Augustus Rogers) with me, and asked Collector Atwood for a copy of the statement.

He refused to give it to me, and said my lawyers had been advising me what to do and that I need never expect a favor from him.

The above is a true statement of the case. The statement obtained from me by Collector Atwood was obtained through my fear of seizure if I refused.

MEDEO ROSE.

I, Augustus Rogers, one of the crew of schooner *Gleaner*, being duly sworn, do depose and say, that I went with Capt. Medeo Rose to the custom-house at Shelburne, Nova Scotia, on the 19th day of April last, and also on the 3d day of June. I heard his conversation with Collector Atwood on both occasions, and hereby certify that the statements of those interviews, as made above, are correct and true.

AUGUSTUS ROGERS.

MASS., ESSEX, ss :

Personally appeared Medeo Rose and Augustus Rogers, and made oath to the truth of the above statements before me.

[SEAL.]

AARON PARSONS,
Notary Public.

AUGUST 3, 1887.

[Inclosure No. 1 to No. 659 bis.]

Mr. Bayard to Sir Charles Tupper.

[Personal and unofficial.]

WASHINGTON, D. C., May 31, 1887.

MY DEAR SIR CHARLES:

The delay in writing you has been unavoidable.

In the very short interview afforded by your visit I referred to the embarrassment arising out of the gradual emancipation of Canada from the control of the mother country, and the consequent assumption by that community of attributes of autonomous and separate sovereignty, not, however, distinct from the Empire of Great Britain.

The awkwardness of this imperfectly-developed sovereignty is felt most strongly by the United States, which can not have formal treaty relations with Canada, except indirectly and as a colonial dependency of the British Crown, and nothing could better illustrate the embarrassment arising from this amorphous condition of things than the volumes of correspondence published severally this year, relating to the fisheries, by the United States, Great Britain, and the Government of the Dominion.

The time lost in this circumlocution, although often most regrettable, was the least part of the difficulty, and the indirectness of appeal and reply was the most serious feature, ending, as it did, very unsatisfactorily.

It is evident that the commercial intercourse between the inhabitants of Canada and those of the United States has grown into too vast proportions to be exposed much longer to this wordy triangular duel, and more direct and responsible methods should be resorted to.

Your own able, earnest, and patriotic services in the Government and Parliament of the Dominion are well known, and afford ample proof of your comprehension of the resources, rapidly-increasing interests, and needs of British North America.

On the other hand, I believe I am animated by an equal desire to serve my own country, and trust to do it worthily.

The immediate difficulty to be settled is found in the treaty of 1818 between the United States and Great Britain, which has been *questio verata* ever since it was con-

cluded, and to-day is suffered to interfere with and seriously embarrass the good understanding of both countries in the important commercial relations and interests which have come into being since its ratification, and for the adjustment of which it is wholly inadequate, as has been unhappily proved by the events of the past two years.

I am confident we both seek to attain a just and permanent settlement, and there is but one way to procure it, and that is by a straightforward treatment on a liberal and statesman-like plan of the entire commercial relations of the two countries.

I say *commercial*, because I do not propose to include, however indirectly, or by any intendment, however partial or oblique, the political relations of Canada and the United States, nor to affect the legislative independence of either country.

When you were here I was prepared to send my reply to the "Observations" upon my proposal for a settlement (of November 15 last), which were communicated to Mr. Phelps by Lord Salisbury on March 24, and also to express my views of his lordship's alternative proposition.

Your visit and invitation to negotiate here was entirely welcome, and of this I endeavored to impress you.

Conversation with the President has confirmed these views, and now it remains to give them practical effect.

Great Britain being the only treaty-making party to deal with the United States, the envoys of that Government alone are authorized to speak in her behalf and create her obligations.

I presume you will be personally constituted a plenipotentiary of Great Britain to arrange here, with whomsoever may be selected to represent the United States, terms of arrangement for a *modus vivendi* to meet present emergencies and also a permanent plan to avoid all future disputes.

It appears to me that as matters now stand the colony of Newfoundland ought to be represented and included, for a single arrangement should suffice to regulate all the joint and several interests involved. I should, therefore, be informed speedily through the proper channel as to the authorization and appointment by the Imperial Government of such representatives.

The gravity of the present condition of affairs between our two countries demands entire frankness.

I feel we stand at "the parting of the ways." In one direction I can see a well-assured, steady, healthful relationship, devoid of petty jealousies, and filled with the fruits of a prosperity arising out of a friendship cemented by mutual interests and enduring because based upon justice; on the other, a career of embittered rivalries, staining our long frontier with the hues of hostility, in which victory means the destruction of an adjacent prosperity without gain to the prevalent party—a mutual physical and moral deterioration which ought to be abhorrent to patriots on both sides, and which I am sure no two men will exert themselves more to prevent than the parties to this unofficial correspondence.

As an intelligent observer of the current of popular sentiment in the United States, you can not have failed to note that the disputed interpretation of the treaty of 1818, and the action of the Canadian officials towards American fishing vessels during the past season, has awakened a great deal of feeling.

It behooves those who are charged with the safe conduct of the honor and interests of the respective countries by every means in their power sedulously to remove all causes of difference.

The roundabout manner in which the correspondence on the fisheries has been necessarily (perhaps) conducted has brought us into the new fishing season, and the period of possible friction is at hand, and this admonishes us that prompt action is needed.

I am prepared, therefore, to meet the authorized agents of Great Britain at this capital at the earliest possible day, and enter upon negotiations for a settlement of all differences.

The magnitude of the interests involved, and the far-reaching and disastrous consequences of any irritating and unfriendly action, will, I trust, present themselves to those in whose jurisdiction the fisheries lie, and cause a wise abstention from vexatious enforcement of disputed powers.

Awaiting your reply, I am, very truly, yours,

T. F. BAYARD.

Sir CHARLES TUPPER, etc.,
Ottawa, Canada.

S. Ex. 113—8

[Inclosure No. 2 to No. 659 bis.]

Sir Charles Tupper to Mr. Bayard.

[Personal and unofficial.]

OTTAWA, June , 1887. (Received June 10, 2 p. m.)

MY DEAR MR. BAYARD:

I had great pleasure in receiving your letter of May 31st, evincing as it does the importance which you attach to an amicable adjustment of the fisheries question, and the maintenance of the cordial commercial relations between the United States and Canada under which such vast and mutually beneficial have grown up.

I entirely concur in your statement that "We both seek to attain a just and permanent settlement, and that there is but one way to procure it, and that is by a straightforward treatment, on a liberal and statesman-like plan, of the entire commercial relations of the two countries."

I note particularly your suggestions that as the interests of Canada are so immediately concerned, Her Majesty's Government should be invited to depute a Canadian statesman to negotiate with you "a *modus vivendi* to meet present emergencies and also a permanent plan to avoid all disputes," and I feel no doubt that a negotiation thus undertaken would greatly increase the prospects of a satisfactory solution.

I say this, not because I believe that there has been any disposition on the part of the British Government to postpone Canadian interests to its own, or to retard by needless delay a settlement desired by and advantageous to the people of Canada and of the United States, but because I have no doubt that direct personal communications will save valuable time and render each side better able to comprehend the needs and the position of the other.

I am greatly flattered by your kind personal allusion to myself.

The selection of the persons who might be deputed to act as commissioners would however, as you are aware, rest with Her Majesty's Government.

Our experience has been to the effect that the selection has in such cases, as far as it concerned the choice of the representatives of the Dominion, been made with careful regard to public feeling in this country.

I have thought it my duty and also the most effectual manner of giving effect to your suggestion, to make known to Lord Lansdowne the purport of my correspondence with you. He is strongly desirous of facilitating a settlement and will at once bring the matter before the secretary of state with an expression of his hope that no time will be lost in taking steps for establishing, by means of personal communications with your Government, a *modus vivendi* such as you have described, and also for arriving at an understanding in regard to a lasting adjustment of our commercial relations.

In the earnest hope that your proposal for the settlement of this vexed question may result at an early day in a solution satisfactory and beneficial to both countries,

I remain, yours faithfully,

CHARLES TUPPER.

No. 2.

Mr. Bayard to Mr. Phelps.

No. 659 bis.]

DEPARTMENT OF STATE,

Washington, July 12, 1887.

SIR: On March 24th last the Marquis of Salisbury made reply to your note to him of December 3, 1886, and communicated the views of the Canadian Government upon the *ad interim* arrangement proposed by the Government of the United States, under date of the 15th of November preceding, for the settlement of the fishery disputes.

This reply of his lordship and the "observations" of the Canadian authorities upon the proposal for an arrangement were conveyed in Mr. White's dispatch of March 30, and received at this Department April 11th last, when it had my immediate consideration.

An answer was prepared forthwith to the note of his lordship as well as to the "observations," and for your information I now inclose two

copies thereof, which for convenience and intelligibility have been printed as a third parallel column to the original proposal and the Canadian "observations."

This document would have gone forward to you in continuance of the negotiation so commenced between yourself and the British foreign office, but I was indirectly made aware that the Canadian Government, to whom, as it appears, all communications from this Government to that of Great Britain, touching the matters under consideration between the two Governments in relation to the fishery question under the treaty of 1818 had been invariably submitted before reply, sought to make an informal communication to this Department on the subject.

Thus informed, and desiring to lend every aid in my power at this juncture toward a practical settlement of serious and long standing difficulties, I delayed my response to Mr. White's dispatch of March 30, and on May 21 Sir Charles Tupper, the Canadian minister of finance, called upon me at this department, introduced by the British minister at this capital.

The object of this visit was to discuss informally the present condition and prospects of commercial relations between the United States and the Dominion of Canada, especially in connection with the fisheries and the commercial questions involved.

The visit here of Sir Charles Tupper, on behalf of the Canadian Government, was received with cordiality, and expressions were exchanged of a mutual desire for the settlement of all existing difficulties, and for an increased freedom of commercial intercourse between the United States and Canada.

In consequence of the statements made by Sir Charles Tupper on the occasion referred to, I wrote him a personal and unofficial letter on the 31st of May, and received on June 10th his reply, and copies of this correspondence were duly sent to you.

Yesterday Sir Lionel West handed me, and without comment, the following copy of a telegram to him from Lord Salisbury:

If Secretary of State will formally propose the appointment of commission as suggested by him in his correspondence with Sir Charles Tupper, Her Majesty's Government will agree with great pleasure.

SALISBURY.

and I have just telegraphed you to the following effect:

PHELPS, *Minister, London*:

Sir Lionel West handed to me yesterday telegram from Lord Salisbury agreeing to the negotiation suggested by me informally in correspondence with Sir Charles Tupper, after his visit to this capital, and requesting me to make formal proposal, which will be forwarded to you at once.

BAYARD.

By reference to my personal letter to you of May 31, which inclosed a copy of my letter to Sir Charles Tupper of that date, you will perceive that I did not propose the appointment of a "commission," but used the following language in reference to the proposed negotiation:

Your visit and invitation to negotiate here was entirely welcome, and of this I endeavored to impress you.

Conversation with the President has confirmed these views, and now it remains to give them practical effect.

Great Britain being the only treaty-making party to deal with the United States, the envoys of that Government alone are authorized to speak in her behalf and create her obligations.

I presume you will be personally constituted a plenipotentiary of Great Britain to arrange here, with whomsoever may be selected to represent the United States, terms

of arrangement for a *modus vivendi* to meet present emergencies, and also a permanent plan to avoid all future disputes.

It appears to me that as matters now stand the colony of Newfoundland ought to be represented and included, for a single arrangement should suffice to regulate all the joint and several interests involved.

I should, therefore, be informed speedily, through the proper channel, as to the authorization and appointment by the Imperial Government of such representatives.

I am prepared, therefore, to meet the authorized agents of Great Britain at this capital at the earliest possible day, and enter upon negotiations for a settlement of all differences.

By reason of the action of the Senate on April 15, 1886, in regard to the recommendation of the President for the appointment of a joint commission to take into consideration the entire question of fishing rights of the two Governments and their citizens on the coast of British North America, the formation of a joint commission was not again proposed by me, but in the discharge of his constitutional functions negotiations with a view to a settlement were not abandoned, but have been proceeded with by this Department under the direction of the President.

The number of plenipotentiaries to be employed on either side does not seem to be material to the object in view. The treaty of 1854 comprehended the same class of questions substantially, and as I have before remarked in my correspondence with you, was negotiated by the Earl of Elgin, at that time governor-general of Canada, and Mr. William L. Marcy, then the Secretary of State of the United States. By reference also to our prior treaties with Great Britain it will be found that the number of plenipotentiaries employed on either side varied and was frequently unequal.

The "mixed commission" referred to in the first article of the *ad interim* proposal submitted by you in December last to the British foreign office, was to be authorized by Congress before appointed, and only under legislative authority could they be so employed and provision made for their compensation.

It is not, therefore, considered essential or important for the accomplishment of the negotiation now contemplated to provide for the appointment of a commission, *eo nomine*.

The questions to be considered and settled are not so complicated in number or nature as to require a large numerical force of negotiators, such as was apparently deemed expedient in 1871.

It is regarded by the President as of the highest importance that a distinct and friendly understanding should without delay be arrived at between the United States and Great Britain, touching the extent of the rights which belong respectively to the citizens of the United States and the subjects of Her Britannic Majesty in relation to the fisheries on the coasts of the British Possessions in North America, and as to any other questions which affect the trade and commercial relations between the United States and those possessions.

You are, therefore, instructed to propose to Her Majesty's principal secretary of state for foreign affairs the appointment of an envoy extraordinary and minister plenipotentiary, to meet in the city of Washington a minister plenipotentiary of the Government of the United States, duly authorized by the respective Governments to treat of and discuss the mode of settling all questions which have arisen out of the fisheries on the coasts of British North America, and all other questions affecting the relations between the United States and Her Britannic Majesty's possessions in North America.

Should it be found necessary or expedient to increase the number of the representatives of either party in the proposed negotiation, it can be done, and notice be given to that effect.

Believing this proposal to be in accord with late expressions of Her Majesty's Government, indicating a cordial and sincere desire to arrive at an amicable, permanent, and just settlement of the important question above referred to, I transmit it to you for presentation, in the full confidence of its prompt acceptance by Her Majesty's Government, and I have the honor to be, Sir,

Your obedient servant,

T. F. BAYARD.

No. 3.

PROTOCOLS OF THE CONFERENCES OF THE NEGOTIATIONS.

I.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *November 22, 1887.*

The Fisheries Conference having formally met, the full powers of the plenipotentiaries were exhibited and found to be in good and due form, as follows:

Grover Cleveland, President of the United States of America. To all whom these presents shall come, greeting:

Know ye that, reposing special trust and confidence in the integrity and ability of Thomas F. Bayard, Secretary of State, William L. Putnam of Maine, and James B. Angell, of Michigan, I hereby invest them with full power jointly and severally, for and in the name of the United States, to meet and confer with plenipotentiaries representing the Government of Her Britannic Majesty, for the purpose of considering and adjusting in a friendly spirit all or any questions relating to rights of fishery in the seas adjacent to British North America and Newfoundland, which are in dispute between the Government of the United States and that of Her Britannic Majesty, and any other questions which may arise and which they may be authorized by their respective governments to consider and adjust; and I also fully empower and authorize the said Thomas F. Bayard, William L. Putnam, and James B. Angell, jointly and severally, to conclude and sign any treaty or treaties touching the premises, for the final ratification of the President of the United States, by and with the advice and consent of the Senate, if such advice and consent be given.

In testimony whereof I have caused the seal of the United States to be hereunto affixed.

Given under my hand, at the city of Washington, this eighteenth day of November, in the year of our Lord one thousand eight hundred and eighty-seven, and of the Independence of the United States the one hundred and twelfth.

[SEAL.]

GROVER CLEVELAND.

By the President:

T. F. BAYARD,
Secretary of State.

Victoria R. & I. Victoria by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, Empress of India, &c., &c., to all and singular to whom these presents shall come, greeting:

Whereas for the purpose of considering and adjusting in a friendly spirit with plenipotentiaries to be appointed on the part of our good friends the United States of America all or any questions relating to rights of fishery in the seas adjacent to British North America and Newfoundland, which are in dispute between our Government and that of our said good friends, and any other questions which may arise which the respective plenipotentiaries may be authorized by their governments to consider and adjust, we have judged it expedient to invest fit persons with full power to conduct on our part the discussions in this behalf. Know ye, therefore, that we, reposing especial trust and confidence in the wisdom, loyalty, diligence, and circumspection of our right trusty and well beloved councillor, Joseph Chamberlain, a member of our most honorable privy council, and a member of Parliament, &c., &c.; of our trusty and well beloved the honorable Sir Lionel Sackville Sackville West, knight commander of our most distinguished order of St. Michael and St. George, our envoy extraordinary and minister plenipotentiary to our said good friends the United States of America, &c., &c., and of our trusty and well beloved Sir Charles Tupper, knight Grand Cross of our most distinguished order of St. Michael and St. George, companion of our most honorable order of the Bath, minister of finance of the Dominion of Canada, &c., &c., have named, made, constituted, and appointed, as we do by these presents name, make, constitute, and appoint them our undoubted plenipotentiaries, giving to them, or to any two of them, all manner of power and authority to treat, adjust, and conclude, with such plenipotentiaries as may be vested with similar power and authority on the part of our good friends the United States of America, any treaties, conventions, or agreements that may tend to the attainment of the above-mentioned end, and to sign for us and in our name, everything so agreed upon and concluded, and to do and transact all such other matters as may appertain to the finishing of the aforesaid work in as ample manner and form, and with equal force and efficiency, as we ourselves could do if personally present, engaging and promising upon our royal word that whatever things shall be so transacted and concluded by our said plenipotentiaries shall be agreed to, acknowledged, and accepted by us in the fullest manner, and that we will never suffer, either in the whole or in part, any person whatsoever to infringe the same, or act contrary thereto, as far as it lies in our power. In witness whereof we have caused the great seal of our United Kingdom of Great Britain and Ireland to be affixed to these presents which we have signed with our royal hand. Given at our court at Balmoral the twenty-fourth day of October in the year of our Lord one thousand eight hundred and eighty-seven, and in the fifty-first year of our reign.

The British plenipotentiaries proposed that Mr. Bayard, Secretary of State of the United States, should preside.

Mr. Bayard, while expressing appreciation of the proposal, stated the opinion, in which the other United States plenipotentiaries concurred, that it was not necessary that any one should preside; and the proposal was permitted to rest.

Mr. John B. Moore, Third Assistant Secretary of State of the United States, acting as secretary to the United States plenipotentiaries, and Mr. J. H. G. Bergne, C. M. G., superintendent of the treaty depart-

ment of the British foreign office, acting as secretary to the British plenipotentiaries, were requested to make the protocols of the Conference.

After some discussion of questions before the Conference, it was adjourned to 12 o'clock m. of the 28th of November.

JOHN B. MOORE.
J. H. G. BERGNE.

II.--PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, November 28, 1887.

The Conference having assembled, all the plenipotentiaries being present, the protocol of the session held on the 22d of November was approved.

After discussion of questions before the Conference, it was adjourned to the 30th of November.

J. H. G. BERGNE.
JOHN B. MOORE.

III.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, November 30, 1887.

The Conference having assembled, all the plenipotentiaries being present, the protocol of the previous session was approved, and discussion of the questions under consideration was resumed.

An adjournment was made to the 3d of December.

JOHN B. MOORE.
J. H. G. BERGNE.

IV.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, December 3, 1887.

The Conference re-assembled, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 7th of December.

J. H. G. BERGNE.
JOHN B. MOORE.

V.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, December 7, 1887.

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 10th of December.

JOHN B. MOORE.
J. H. G. BERGNE.

VI.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *December 10, 1887.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 4th of January, 1888.

J. H. G. BERGNE.
JOHN B. MOORE.

VII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 9, 1888.*

The Conference, which was adjourned on the 10th of December, 1887, till the 4th of January, 1888, did not, owing to unavoidable delays, re-assemble till the 9th of January.

On that day the Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 11th of January.

J. B. MOORE.
J. H. G. BERGNE.

VIII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 11, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 14th of January.

J. B. MOORE.
J. H. G. BERGNE.

IX.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 14, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 18th of January.

J. H. G. BERGNE.
J. B. MOORE.

X.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 18, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 21st of January.

J. B. MOORE.
J. H. G. BERGNE.

XI.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 21, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 23d of January.

J. H. G. BERGNE.
J. B. MOORE.

XII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 23, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 24th of January.

J. H. G. BERGNE.
J. B. MOORE.

XIII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 24, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 25th of January.

J. H. G. BERGNE.
J. B. MOORE.

XIV.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 25, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 26th of January.

J. B. MOORE.
J. H. G. BERGNE.

XV.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 26, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 28th of January.

J. B. MOORE.
J. H. G. BERGNE.

XVI.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 28, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 30th of January.

J. B. MOORE.

J. H. G. BERGNE.

XVII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 30, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 31st of January.

J. B. MOORE.

J. H. G. BERGNE.

XVIII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *January 31, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 1st of February.

J. B. MOORE.

J. H. G. BERGNE.

XIX.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 1, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 2d of February.

J. H. G. BERGNE.

J. B. MOORE.

XX.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 2, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 3d of February.

J. H. G. BERGNE.

J. B. MOORE.

XXI.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 3, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 6th of February.

J. H. G. BERGNE.

J. B. MOORE.

XXII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 6, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 7th of February.

J. H. G. BERGNE.

J. B. MOORE.

XXIII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 7, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 8th of February.

J. H. G. BERGNE.

J. B. MOORE.

XXIV.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 8, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 9th of February.

J. H. G. BERGNE.

J. B. MOORE.

XXV.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 9, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 10th of February.

J. B. MOORE.

J. H. G. BERGNE.

XXVI.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 10, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 13th of February.

J. P. MOORE.

J. H. G. BERGNE.

XXVII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 13, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to the 14th of February.

J. H. G. BERGNE.

J. B. MOORE.

XXVIII.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 14, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous sessions was approved, and after further discussion of matters under consideration, the Conference was adjourned to 11 o'clock a. m., 15th of February.

J. H. G. BERGNE.

J. B. MOORE.

XXIX.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 15, 1888.*

The Conference met, all the plenipotentiaries being present.

The protocol of the previous session was approved, and after further discussion of matters under consideration, the Conference was adjourned to 5 o'clock p. m. of the same day.

J. B. MOORE.

J. H. G. BERGNE.

XXX.—PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, *February 15, 1888.*

The Conference met at 5 o'clock p. m., all the plenipotentiaries being present.

The protocol of the previous session was approved, and the Conference then proceeded to the comparison of two printed drafts of a treaty, which, being found to be correct, were duly signed by the plenipotentiaries.

The treaty having been signed, the British plenipotentiaries presented the following paper:

The treaty having been signed, the British plenipotentiaries desire to state that they have been considering the position which will be created by the immediate com.

commencement of the fishing season before the treaty can possibly be ratified by the Senate of the United States, by the parliament of Canada, and the legislature of Newfoundland.

In the absence of such ratification the old conditions, which have given rise to so much friction and irritation, might be revived, and might interfere with the unprejudiced consideration of the treaty by the legislative bodies concerned.

Under these circumstances, and with the further object of affording evidence of their anxious desire to promote good feeling and to remove all possible subjects of controversy, the British plenipotentiaries are ready to make the following temporary arrangement for a period not exceeding two years, in order to afford a "*modus vivendi*" pending the ratification of the treaty:

1. For a period not exceeding two years from the present date, the privilege of entering the bays and harbors of the Atlantic coasts of Canada and Newfoundland shall be granted to United States fishing vessels by annual licenses at a fee of \$1½ per ton for the following purposes:

The purchase of bait, ice, seines, lines, and all other supplies and outfits.

Transhipment of catch and shipping of crews.

2. If during the continuance of this arrangement the United States should remove the duties on fish, fish-oil, whale and seal-oil (and their coverings, packages, etc.), the said licenses shall be issued free of charge.

3. United States fishing vessels entering the bays and harbors of the Atlantic coasts of Canada or of Newfoundland for any of the four purposes mentioned in Article I of the convention of October 20, 1818, and not remaining therein more than twenty-four hours, shall not be required to enter or clear at the custom-house, providing that they do not communicate with the shore.

4. Forfeiture to be exacted only for the offences of fishing or preparing to fish in territorial waters.

5. This arrangement to take effect as soon as the necessary measures can be completed by the colonial authorities.

J. CHAMBERLAIN.

L. S. SACKVILLE WEST.

CHARLES TUPPER.

WASHINGTON, February 15, 1888.

To this communication the American plenipotentiaries made the following reply:

The American plenipotentiaries having received the communication of the British plenipotentiaries of this date conveying their plan for the administration to be observed by the Governments of Canada and Newfoundland in respect to the fisheries during the period which may be requisite for the consideration by the Senate of the treaty this day signed, and the enactment of the legislation by the respective Governments therein proposed, desire to express their satisfaction with this manifestation of an intention on the part of the British plenipotentiaries, by the means referred to, to maintain the relations of good neighborhood between the British Possessions in North America and the United States; and they will convey the communication of the British plenipotentiaries to the President of the United States, with a recommendation that the same may be by him made known to the Senate for its information, together with the treaty, when the latter is submitted to that body for ratification.

T. F. BAYARD.

WILLIAM L. PUTNAM.

JAMES B. ANGELL.

WASHINGTON, February 15, 1888.

Mr. Bayard referred, on behalf of the American plenipotentiaries, to the services of the secretaries during the sessions of the Conference, and proposed that an expression of thanks be made to them for their assistance. In this the British plenipotentiaries concurred.

Mr. Bayard then said that he wished to express his gratification at what had been accomplished. He hoped and believed the Conference had laid the basis upon which Canada and the United States could look forward to a period of enlarged intercourse and increasingly friendly relations. As he had expressed himself before, he felt that as a result of the controversies of the two preceding years, the two countries stood at the parting of the ways, and it became necessary to determine whether their future should be in the direction of friendship and mutual conven-

ience, or of unfriendliness and alienation. He hoped the work that had been done by the Conference would decide that question, and that the bonds of amity between the two countries would be strengthened by the ties of friendly and mutually beneficial intercourse.

Mr. Chamberlain said that on behalf of the British plenipotentiaries he desired, at the conclusion of the lengthened deliberations of the Conference, to acknowledge the uniform courtesy of their American colleagues. The same spirit had animated all who had been engaged in this work, and he hoped and believed had contributed to a joint and honorable settlement of a long pending controversy, which has more than once threatened the friendly relations of the United States and Great Britain.

The responsibility would now rest on other shoulders; but whatever the result might be, the plenipotentiaries would have the satisfaction of knowing that they had at least done their part in endeavoring not merely to remove existing causes of irritation, but also to promote in the future that cordial amity and sentiment of good neighborhood which were so desirable in the case of kindred and bordering nations.

Sir Charles Tupper said:

Mr. Bayard, I must add a few words to what has been so well said by Mr. Chamberlain. I desire on behalf of Canada to say that I think the conciliatory spirit in which we both met last Easter has found expression in the terms of this treaty. I hope it will remove all causes of irritation between Great Britain and the United States, and conduce to the continuance and extension of those intimate commercial relations which have so long existed between Canada and the United States, with marked advantage to both countries. I sincerely hope that the settlement at which we have arrived will be accepted by the people on both sides of the boundary line as an equitable and honorable arrangement.

At the suggestion of Mr. Putnam, the secretaries were requested by the plenipotentiaries to embody the remarks of Mr. Bayard, Mr. Chamberlain, and Sir Charles Tupper in the protocol of the session.

The Conference was then finally adjourned.

J. B. MOORE.

J. H. G. BERGNE.

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S. MOORE.
H. G. BERGNE.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A treaty between the United States and Great Britain concerning the interpretation of the convention of October 20, 1818, signed at Washington February 15, 1888.

FEBRUARY 20, 1888.—Read, treaty read the first time, referred to the Committee on Foreign Relations, and, together with the message and the accompanying documents, ordered to be printed in confidence for the use of the Senate.

To the Senate of the United States:

In my annual message transmitted to the Congress in December, 1886, it was stated that negotiations were then pending for the settlement of the questions growing out of the rights claimed by American fishermen in British North American waters.

As a result of such negotiations a treaty has been agreed upon between Her Britannic Majesty and the United States, concluded and signed in this capital, under my direction and authority, on the 15th of February instant, and which I now have the honor to submit to the Senate, with the recommendation that it shall receive the consent of that body, as provided in the Constitution, in order that the ratifications thereof may be duly exchanged and the treaty be carried into effect.

Shortly after Congress had adjourned in March last, and in continuation of my efforts to arrive at such an agreement between the Governments of Great Britain and the United States as would secure to the citizens of the respective countries the unmolested enjoyment of their just rights under existing treaties and international comity in the territorial waters of Canada and of Newfoundland, I availed myself of opportune occurrences indicative of a desire to make without delay an amicable and final settlement of a long-standing controversy—productive of much irritation and misunderstanding between the two nations—to send through our minister in London proposals that a conference should take place on the subject at this capital.

The experience of the past two years had demonstrated the dilatory and unsatisfactory consequences of our indirect transaction of business through the foreign office in London, in which the views and wishes of the Government of the Dominion of Canada were practically predominant, but were only to find expression at second hand.

To obviate this inconvenience and obstruction to prompt and well-de-

lined settlement, it was considered advisable that the negotiations should be conducted in this city, and that the interests of Canada and Newfoundland should be directly represented therein.

The terms of reference having been duly agreed upon between the two Governments, and the conference arranged to be held here, by virtue of the power in me vested by the Constitution, I duly authorized Thomas F. Bayard, the Secretary of State of the United States, William L. Putnam, a citizen of the State of Maine, and James B. Angell, a citizen of the State of Michigan, for and in the name of the United States, to meet and confer with the plenipotentiaries representing the Government of Her Britannic Majesty, for the purpose of considering and adjusting in a friendly spirit all or any questions relating to rights of fishery in the seas adjacent to British North America and Newfoundland which were in dispute between the Governments of the United States and that of Her Britannic Majesty, and jointly and severally to conclude and sign any treaty or treaties touching the premises; and I herewith transmit for your information full copies of the power so given by me.

In execution of the powers so conveyed, the said Thomas F. Bayard, William L. Putnam, and James B. Angell, in the month of November last, met in this city the plenipotentiaries of Her Britannic Majesty, and proceeded in the negotiation of a treaty as above authorized. After many conferences and protracted efforts an agreement has at length been arrived at, which is embodied in the treaty which I now lay before you.

The treaty meets my approval, because I believe that it supplies a satisfactory, practical, and final adjustment, upon a basis honorable and just to both parties, of the difficult and vexed question to which it relates.

A review of the history of this question will show that all former attempts to arrive at a common interpretation, satisfactory to both parties, of the first article of the treaty of October 20, 1818, have been unsuccessful; and with the lapse of time the difficulty and obscurity have only increased.

The negotiations in 1854, and again in 1871, ended in both cases in temporary reciprocal arrangements of the tariffs of Canada and Newfoundland and of the United States, and the payment of a money award by the United States, under which the real questions in difference remained unsettled, in abeyance, and ready to present themselves anew just so soon as the conventional arrangements were abrogated.

The situation, therefore, remained unimproved by the results of the treaty of 1871, and a grave condition of affairs, presenting almost identically the same features and causes of complaint by the United States against Canadian action and British default in its correction, confronted us in May, 1886, and has continued until the present time.

The greater part of the correspondence which has taken place between the two Governments has heretofore been communicated to Congress, and at as early a day as possible I shall transmit the remaining portion to this date, accompanying it with the joint protocols of the conferences which resulted in the conclusion of the treaty now submitted to you.

You will thus be fully possessed of the record and history of the case since the termination, on June 30, 1885, of the fishery articles of the Treaty of Washington of 1871, whereby we were relegated to the provisions of the treaty of October 20, 1818.

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As the documents and papers referred to will supply full information of the positions taken under my administration by the representatives of the United States, as well as those occupied by the representatives of the Government of Great Britain, it is not considered necessary or expedient to repeat them in this message. But I believe the treaty will be found to contain a just, honorable, and, therefore, satisfactory solution of the difficulties which have clouded our relations with our neighbors on our northern border.

Especially satisfactory do I believe the proposed arrangement will be found by those of our citizens who are engaged in the open sea fisheries, adjacent to the Canadian coast, and resorting to those ports and harbors under treaty provisions and rules of international law.

The proposed delimitation of the lines of the exclusive fisheries from the common fisheries will give certainty and security as to the area of their legitimate field; the headland theory of imaginary lines is abandoned by Great Britain, and the specification in the treaty of certain named bays especially provided for gives satisfaction to the inhabitants of the shores, without subtracting materially from the value or convenience of the fishery rights of Americans.

The uninterrupted navigation of the Strait of Canso is expressly and for the first time affirmed, and the four purposes for which our fishermen under the treaty of 1818 were allowed to enter the bays and harbors of Canada and Newfoundland within the belt of 3 marine miles are placed under a fair and liberal construction, and their enjoyment secured without such conditions and restrictions as in the past have embarrassed and obstructed them so seriously.

The enforcement of penalties for unlawfully fishing or preparing to fish within the inshore and exclusive waters of Canada and Newfoundland is to be accomplished under safe-guards against oppressive or arbitrary action, thus protecting the defendant fishermen from punishment in advance of trial, delays, and inconvenience and unnecessary expense.

The history of events in the last two years shows that no feature of Canadian administration was more harassing and injurious than the compulsion upon our fishing vessels to make formal entry and clearance on every occasion of temporarily seeking shelter in Canadian ports and harbors.

Such inconvenience is provided against in the proposed treaty, and this most frequent and just cause of complaint is removed.

The articles permitting our fishermen to obtain provisions and the ordinary supplies of trading vessels on their homeward voyages, and under which they are accorded the further and even more important privilege on all occasions of purchasing such casual or needful provisions and supplies as are ordinarily granted to trading vessels, are of great importance and value.

The licenses which are to be granted without charge and on application, in order to enable our fishermen to enjoy these privileges, are reasonable and proper checks in the hands of the local authorities to identify the recipients and prevent abuse, and can form no impediment to those who intend to use them fairly.

The hospitality secured for our vessels in all cases of actual distress, with liberty to unload and sell and transship their cargoes, is full and liberal.

These provisions will secure the substantial enjoyment of the treaty rights for our fishermen under the treaty of 1818, for which contention has been steadily made in the correspondence of the Department of

State, and our minister at London, and by the American negotiators of the present treaty.

The right of our fishermen under the treaty of 1818 did not extend to the procurement of distinctive fishery supplies in Canadian ports and harbors; and one item supposed to be essential, to wit, bait, was plainly denied them by the explicit and definite words of the treaty of 1818, emphasized by the course of the negotiation and express decisions which preceded the conclusion of that treaty.

The treaty now submitted contains no provision affecting tariff duties, and, independently of the position assumed upon the part of the United States that no alteration in our tariff or other domestic legislation could be made as the price or consideration of obtaining the rights of our citizens secured by treaty, it was considered more expedient to allow any change in the revenue laws of the United States to be made by the ordinary exercise of legislative will, and in promotion of the public interests. Therefore, the addition to the free list of fish, fish-oil, whale and seal oil, etc., recited in the last article of the treaty, is wholly left to the action of Congress: and in connection therewith the Canadian and Newfoundland right to regulate sales of bait and other fishing supplies within their own jurisdiction is recognized, and the right of our fishermen to freely purchase these things is made contingent, by this treaty, upon the action of Congress in the modification of our tariff laws.

Our social and commercial intercourse with those populations who have been placed upon our borders and made forever our neighbors is made apparent by a list of United States common carriers, marine and inland, connecting their lines with Canada, which was returned by the Secretary of the Treasury to the Senate on the 7th day of February, 1888, in answer to a resolution of that body; and this is instructive as to the great volume of mutually profitable interchanges which has come into existence during the last half century.

This intercourse is still but partially developed, and if the amicable enterprise and wholesome rivalry between the two populations be not obstructed, the promise of the future is full of the fruits of an unbounded prosperity on both sides of the border.

The treaty now submitted to you has been framed in a spirit of liberal equity and reciprocal benefits, in the conviction that mutual advantage and convenience are the only permanent foundation of peace and friendship between States, and that with the adoption of the agreement now placed before the Senate, a beneficial and satisfactory intercourse between the two countries will be established so as to secure perpetual peace and harmony.

In connection with the treaty herewith submitted I deem it also my duty to transmit to the Senate a written offer or arrangement, in the nature of a *modus vivendi*, tendered after the conclusion of the treaty on the part of the British plenipotentiaries, to secure kindly and peaceful relations during the period that may be required for the consideration of the treaty by the respective Governments and for the enactment of the necessary legislation to carry its provisions into effect if approved.

This paper, freely and on their own motion, signed by the British conferees, not only extends advantages to our fishermen, pending the ratification of the treaty, but appears to have been dictated by a friendly and amicable spirit.

I am given to understand that the other governments concerned in

this treaty will, within a few days, in accordance with their methods of conducting public business, submit said treaty to their respective legislatures, when it will be at once published to the world. In view of such action it appears to be advisable that, by publication here, early and full knowledge of all that has been done in the premises should be afforded to our people.

It would also seem to be useful to inform the popular mind concerning the history of the long continued disputes growing out of the subject embraced in the treaty and to satisfy the public interests touching the same, as well as to acquaint our people with the present status of the questions involved, and to give them the exact terms of the proposed adjustment, in place of the exaggerated and imaginative statements which will otherwise reach them.

I therefore beg leave respectfully to suggest that said treaty and all such correspondence, messages, and documents relating to the same as may be deemed important to accomplish these purposes be at once made public by the order of your honorable body.

GROVER CLEVELAND.

EXECUTIVE MANSION,
February 20, 1888.

1 Whereas differences have arisen concerning the interpretation
2 of Article I. of the Convention of October 20, 1818; the United
3 States of America, and Her Majesty the Queen of the United King-
4 dom of Great Britain and Ireland, being mutually desirous of re-
5 moving all causes of misunderstanding in relation thereto, and of
6 promoting friendly intercourse and good neighborhood between
7 the United States and the Possessions of Her Majesty in North
8 America, have resolved to conclude a Treaty to that end, and have
9 named as their Plenipotentiaries, that is to say:

10 The President of the United States, Thomas F. Bayard, Secre-
11 tary of State; William L. Putnam, of Maine; and James B. Angell,
12 of Michigan:

13 And Her Majesty the Queen of the United Kingdom of Great
14 Britain and Ireland, The Right Hon. Joseph Chamberlain, M. P.
15 The Honorable Sir Lionel Sackville Sackville West, K. C. M. G.,
16 Her Britannic Majesty's Envoy Extraordinary and Minister Plen-
17 itary to the United States of America; and Sir Charles Tup-
18 per, G. C. M. G., C. B., Minister of Finance of the Dominion of
19 Canada;

20 Who, having communicated to each other their respective Full
21 Powers, found in good and due form, have agreed upon the follow-
22 ing articles:

23 ARTICLE I.

24 The High Contracting Parties agree to appoint a Mixed Commis-
25 sion to delimit, in the manner provided in this Treaty, the British
26 waters, bays, creeks, and harbors, of the coasts of Canada and of
27 Newfoundland, as to which the United States, by Article I. of the
28 convention of October 20, 1818, between the United States and
29 Great Britain, renounced forever any liberty to take, dry, or cure
30 fish.

31 ARTICLE II.

32 The Commission shall consist of two Commissioners to be named
33 by her Britannic Majesty, and of two Commissioners to be named

34 by the President of the United States, without delay, after the
35 exchange of ratifications of this Treaty.

36 The Commission shall meet and complete the delimitation as
37 soon as possible thereafter.

38 In case of the death, absence, or incapacity of any Commissioner,
39 or in the event of any Commissioner omitting or ceasing to act
40 as such, the President of the United States or Her Britannic
41 Majesty, respectively, shall forthwith name another person to act
42 as Commissioner instead of the Commissioner originally named.

43 ARTICLE III.

44 The delimitation referred to in Article I. of this Treaty shall be
45 marked upon British Admiralty charts by a series of lines regu-
46 larly numbered and duly described. The charts so marked shall,
47 on the termination of the work of the Commission, be signed by
48 the Commissioners in quadruplicate, one copy whereof shall be de-
49 livered to the Secretary of State of the United States, and three
50 copies to Her Majesty's Government. The delimitation shall be
51 made in the following manner, and shall be accepted by both the
52 High Contracting Parties as applicable for all purposes under Ar-
53 ticle I. of the Convention of October 20, 1818, between the United
54 States and Great Britain.

55 The three marine miles mentioned in Article I. of the Convention
56 of October 20, 1818, shall be measured seaward from low water
57 mark; but at every bay, creek, or harbor, not otherwise specially
58 provided for in this Treaty, such three marine miles shall be meas-
59 ured seaward from a straight line drawn across the bay, creek, or
60 harbor, in the part nearest the entrance at the first point where
61 the width does not exceed ten marine miles.

62 ARTICLE IV.

63 At or near the following bays the limits of exclusion under Arti-
64 cle I. of the Convention of October 20, 1818, at points more than
65 three marine miles from low water mark, shall be established by
66 the following lines, namely:

67 At the Baie des Chaleurs the line from the Light at Birch Point
68 on Miscou Island to Macquereau Point Light; at the Bay of Mira-
69 michi, the line from the Light at Point Escuminac to the Light on

70 the Eastern Point of Tabisintac Gully; at Egmont Bay, in Prince
71 Edward Island, the line from the Light at Cape Egmont to the
72 Light at West Point; and off St. Ann's Bay, in the Province of
73 Nova Scotia, the line from Cape Smoke to the Light at Point
74 Aconi.

75 At Fortune Bay, in Newfoundland, the line from Connaigre
76 Head to the Light on the South-easterly end of Brunet Island,
77 thence to Fortune Head; at Sir Charles Hamilton Sound, the line
78 from the South-east point of Cape Fogo to White Island, thence
79 to the North end of Peckford Island, and from the South end of
80 Peckford Island to the East Headland of Ragged Harbor.

81 At or near the following bays the limits of exclusion shall be
82 three marine miles seaward from the following lines, namely:

83 At or near Barrington Bay, in Nova Scotia, the line from the
84 Light on Stoddard Island to the Light on the south point of Cape
85 Sable, thence to the light at Baccaro Point; at Chedabucto and
86 St. Peter's Bays, the line from Cranberry Island Light to Green
87 Island Light, thence to Point Rouge; at Mira Bay, the line from
88 the Light on the East Point of Scatari Island to the North-easterly
89 Point of Cape Morien; and at Placentia Bay, in Newfoundland,
90 the line from Latine Point, on the Eastern mainland shore, to the
91 most Southerly Point of Red Island, thence by the most Southerly
92 Point of Merasheen Island to the mainland.

93 Long Island and Bryer Island, at St. Mary's Bay, in Nova Sco-
94 tia, shall, for the purpose of delimitation, be taken as the coasts
95 of such bay.

96

ARTICLE V.

97 Nothing in this Treaty shall be construed to include within the
98 common waters any such interior portions of bays, creeks, or
99 harbors as can not be reached from the sea without passing within
100 the three marine miles mentioned in Article I of the Convention of
101 October 20, 1818.

102

ARTICLE VI.

103 The Commissioners shall from time to time report to each of the
104 High Contracting Parties, such lines as they may have agreed
105 upon, numbered, described, and marked as herein provided, with
106 quadruplicate charts thereof; which lines so reported shall forth-

107 with from time to time be simultaneously proclaimed by the High
 108 Contracting Parties, and be binding after two months from such
 109 proclamation.

110

ARTICLE VII.

111 Any disagreement of the Commissioners shall forthwith be re-
 112 ferred to an Umpire selected by the Secretary of State of the United
 113 States and Her Britannic Majesty's Minister at Washington; and
 114 his decision shall be final.

115

ARTICLE VIII.

116 Each of the High Contracting Parties shall pay its own Commis-
 117 sioners and officers. All other expenses jointly incurred, in con-
 118 nection with the performance of the work, including compensation
 119 to the Umpire, shall be paid by the High Contracting Parties in
 120 equal moieties.

121

ARTICLE IX.

122 Nothing in this Treaty shall interrupt or affect the free naviga-
 123 tion of the Strait of Canso by fishing vessels of the United States.

124

ARTICLE X.

125 United States fishing vessels entering the bays or harbors re-
 126 ferred to in Article I. of this Treaty shall conform to harbor regu-
 127 lations common to them and to fishing vessels of Canada or of
 128 Newfoundland.

129

130 They need not report, enter, or clear, when putting into such
 131 bays or harbors for shelter or repairing damages, nor when put-
 132 ting into the same, outside the limits of established ports of entry,
 133 for the purpose of purchasing wood or of obtaining water; except
 134 that any such vessel remaining more than twenty-four hours, ex-
 135 clusive of Sundays and legal holidays, within any such port, or
 136 communicating with the shore therein, may be required to report,
 137 enter, or clear; and no vessel shall be excused hereby from giving
 138 due information to boarding officers.

139

139 They shall not be liable in any such bays or harbors for com-
 140 pulsory pilotage; nor, when therein for the purpose of shelter, of
 141 repairing damages, of purchasing wood, or of obtaining water,
 142 shall they be liable for harbor dues, tonnage dues, buoy dues,

light dues, or other similar dues; but this enumeration shall not permit other charges inconsistent with the enjoyment of the liberties reserved or secured by the Convention of October 20, 1818.

145

ARTICLE XI.

United States fishing vessels entering the ports, bays, and harbors of the Eastern and Northeastern coasts of Canada or of the coasts of Newfoundland under stress of weather or other casualty may unload, reload, tranship, or sell, subject to customs laws and regulations, all fish on board, when such unloading, transshipment, or sale is made necessary as incidental to repairs, and may replenish outfits, provisions and supplies damaged or lost by disaster; and in case of death or sickness shall be allowed all needful facilities, including the shipping of crews.

Licenses to purchase in established ports of entry of the aforesaid coasts of Canada or of Newfoundland, for the homeward voyage, such provisions and supplies as are ordinarily sold to trading vessels, shall be granted to United States fishing vessels in such ports, promptly upon application and without charge; and such vessels, having obtained licenses in the manner aforesaid, shall also be accorded upon all occasions such facilities for the purchase of casual or needful provisions and supplies as are ordinarily granted to the trading vessels; but such provisions or supplies shall not be obtained by barter, nor purchased for re-sale or traffic.

165

ARTICLE XII.

Fishing vessels of Canada and Newfoundland shall have on the Atlantic coast of the United States all the privileges reserved and secured by this Treaty to United States fishing vessels in the aforesaid waters of Canada and Newfoundland.

170

ARTICLE XIII.

The Secretary of the Treasury of the United States shall make regulations providing for the conspicuous exhibition by every United States fishing vessel, of its official number on each bow; and any such vessel, required by law to have an official number, and failing to comply with such regulations, shall not be entitled to the licenses provided for in this Treaty.

- 177 Such regulations shall be communicated to Her Majesty's Gov-
 178 ernment previously to their taking effect.

ARTICLE XIV.

179

180 The penalties for unlawfully fishing in the waters, bays, creeks,
 181 and harbors, referred to in Article I of this Treaty, may extend to
 182 forfeiture of the boat or vessel, and appurtenances, and also of the
 183 supplies and cargo aboard when the offense was committed;
 184 and for preparing in such waters to unlawfully fish therein, penal-
 185 ties shall be fixed by the court, not to exceed those for unlawfully
 186 fishing; and for any other violation of the laws of Great Britain,
 187 Canada, or Newfoundland relating to the right of fishery in such
 188 waters, bays, creeks, or harbors, penalties shall be fixed by the
 189 court, not exceeding in all three dollars for every ton of the boat
 190 or vessel concerned. The boat or vessel may be holden for such
 191 penalties and forfeitures.

192 The proceedings shall be summary and as inexpensive as prac-
 193 ticable. The trial (except on appeal) shall be at the place of de-
 194 tention, unless the judge shall, on request of the defense, order it
 195 to be held at some other place adjudged by him more convenient.
 196 Security for costs shall not be required of the defense, except
 197 when bail is offered. Reasonable bail shall be accepted. There
 198 shall be proper appeals available to the defense only; and the
 199 evidence at the trial may be used on appeal.

200 Judgments of forfeiture shall be reviewed by the Governor-
 201 General of Canada in Council, or the Governor in Council of
 202 Newfoundland, before the same are executed.

ARTICLE XV.

203

204 Whenever the United States shall remove the duty from fish-
 205 oil, whale-oil, seal-oil, and fish of all kinds (except fish preserved
 206 in oil), being the produce of fisheries carried on by the fishermen
 207 of Canada and Newfoundland, including Labrador, as well as
 208 from the usual and necessary casks, barrels, kegs, cans, and other
 209 usual and necessary coverings containing the products above men-
 210 tioned, the like products, being the produce of fisheries carried on
 211 by the fishermen of the United States, as well as the usual and
 212 necessary coverings of the same, as above described, shall be ad-

213 mitted free of duty into the Dominion of Canada and Newfound-
214 land.

215 And upon such removal of duties, and while the aforesaid ar-
216 ticles are allowed to be brought into the United States by British
217 subjects, without duty being reimposed thereon, the privilege of
218 entering the ports, bays, and harbors of the aforesaid coasts of
219 Canada and Newfoundland shall be accorded to United States
220 fishing vessels by annual licenses, free of charge, for the follow-
221 ing purposes, namely :

222 1. The purchase of provisions, bait, ice, seines, lines, and all
223 other supplies and outfits;

224 2. Transshipment of catch, for transport by any means of con-
225 veyance ;

226 3. Shipping of crews.

227 Supplies shall not be obtained by barter, but bait may be so
228 obtained.

229 The like privileges shall be continued or given to fishing vessels
230 of Canada and of Newfoundland on the Atlantic coasts of the
231 United States.

232

ARTICLE XVI.

233 This Treaty shall be ratified by the President of the United
234 States, by and with the advice and consent of the Senate ; and by
235 Her Britannic Majesty, having received the assent of the Parlia-
236 ment of Canada and of the Legislature of Newfoundland ; and
237 the ratifications shall be exchanged at Washington as soon as
238 possible.

239 In faith whereof, We, the respective Plenipotentiaries, have
240 signed this Treaty, and have hereunto affixed our seals.

241 Done in duplicate, at Washington, this fifteenth day of Feb-
242 ruary, in the year of our Lord one thousand eight hundred and
243 eighty-eight.

244

T. F. BAYARD.

[SEAL.]

245

WILLIAM L. PUTNAM.

[SEAL.]

246

JAMES B. ANGELL.

[SEAL.]

247

J. CHAMBERLAIN.

[SEAL.]

248

L. S. SACKVILLE WEST.

[SEAL.]

249

CHARLES TUPPER.

[SEAL.]

I.

PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, November 22, 1887.

The Fisheries Conference having formally met, the Full Powers of the Plenipotentiaries were exhibited and found to be in good and due form, as follows :

GROVER CLEVELAND, *President of the United States of America. To all to whom these presents shall come, Greeting :*

Know ye that, reposing special trust and confidence in the integrity and ability of Thomas F. Bayard, Secretary of State; William L. Putnam, of Maine; and James B. Angell, of Michigan; I hereby invest them with full power jointly and severally, for and in the name of the United States, to meet and confer with Plenipotentiaries representing the Government of Her Britannic Majesty, for the purpose of considering and adjusting in a friendly spirit all or any questions relating to rights of fishery in the seas adjacent to British North America and Newfoundland which are in dispute between the Government of the United States and that of Her Britannic Majesty, and any other questions which may arise and which they may be authorized by their respective governments to consider and adjust; and I also fully empower and authorize the said Thomas F. Bayard, William L. Putnam, and James B. Angell, jointly and severally, to conclude and sign any treaty or treaties touching the premises, for the final ratification of the President of the United States, by and with the advice and consent of the Senate, if such advice and consent be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed.

Given under my hand at the City of Washington this eighteenth day of November, in the year of our Lord one thousand eight [SEAL.] hundred and eighty-seven, and of the Independence of the United States, the one hundredth and twelfth.

GROVER CLEVELAND.

By the President :

T. F. BAYARD,
Secretary of State.

VICTORIA R. & I. *Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, Empress of India, &c., &c., &c., To All and Singular to whom these Presents shall come, Greeting !*

Whereas for the purpose of considering and adjusting in a friendly spirit with Plenipotentiaries to be appointed on the part of Our Good Friends The United States of America all or any questions relating to rights of Fishery in the seas adjacent to British North America and Newfoundland which are in dispute between Our Government and that of Our said Good Friends, and any other questions which may arise which the respective Plenipotentiaries may be authorized by their Governments to consider and adjust, We have judged it expedient to invest fit persons with Full Power to conduct on Our part the discussions in

this behalf. Know Ye therefore that We, reposing especial trust and confidence in the wisdom, loyalty, diligence, and circumspection of Our Right Trusty and Well beloved Councillor Joseph Chamberlain, a Member of Our Most Honorable Privy Council, and a Member of Parliament, &c., &c.; of Our Trusty and Well beloved The Honorable Sir Lionel Sackville Sackville West, Knight Commander of Our Most Distinguished Order of St. Michael and St. George, Our Envoy Extraordinary and Minister Plenipotentiary to Our said Good Friends the United States of America, &c., &c., and of Our Trusty and Well beloved Sir Charles Tupper, Knight Grand Cross of Our Most Distinguished Order of St. Michael and St. George, Companion of Our Most Honorable Order of the Bath, Minister of Finance of the Dominion of Canada, &c., &c., have named, made, constituted, and appointed, as We do by these Presents name, make, constitute and appoint them Our undoubted Plenipotentiaries: Giving to them, or to any two of them, all manner of power and authority to treat, adjust, and conclude, with such plenipotentiaries as may be vested with similar power and authority on the part of Our Good Friends The United States of America, any Treaties, Conventions, or Agreements that may tend to the attainment of the above-mentioned end, and to sign for Us and in Our Name, everything so agreed upon and concluded, and to do and transact all such other matters as may appertain to the finishing of the aforesaid work in as ample manner and form, and with equal force and efficiency as We Ourselves could do if Personally present: Engaging and promising upon Our Royal Word that whatever things shall be so transacted and concluded by Our said Plenipotentiaries shall be agreed to, acknowledged, and accepted by Us in the fullest manner, and that We will never suffer, either in the whole or in part, any person whatsoever to infringe the same, or act contrary thereto, as far as it lies in Our Power. In witness whereof We have caused the Great Seal of Our United Kingdom of Great Britain and Ireland to be affixed to these Presents which We have signed with Our Royal Hand. Given at Our Court at Balmoral the twenty-fourth day of October in the year of Our Lord one thousand eight hundred and eighty-seven, and in the fifty-first year of Our Reign.

The British Plenipotentiaries proposed that Mr. Bayard, Secretary of State of the United States, should preside.

Mr. Bayard, while expressing appreciation of the proposal, stated the opinion, in which the other United States Plenipotentiaries concurred, that it was not necessary that any one should preside; and the proposal was permitted to rest.

Mr. John B. Moore, Third Assistant Secretary of State of the United States, acting as Secretary to the United States Plenipotentiaries, and Mr. J. H. G. Bergne, C. M. G., Superintendent of the Treaty Department of the British Foreign Office, acting as secretary to the British Plenipotentiaries, were requested to make the Protocols of the Conference.

After some discussion of questions before the Conference, it was adjourned to 12 o'clock m. of the 28th of November.

PROTOCOL.

The treaty having been signed by the British Plenipotentiaries desire to state that they have been considering the position which will be created by the immediate commencement of the fishing season before the Treaty can possibly be ratified by the Senate of the United States, by the Parliament of Canada, and the Legislature of Newfoundland.

In the absence of such ratification the old conditions which have given rise to so much friction and irritation might be revived, and might interfere with the unprejudiced consideration of the Treaty by the legislative bodies concerned.

Under these circumstances, and with the further object of affording evidence of their anxious desire to promote good feeling and to remove all possible subjects of controversy, the British Plenipotentiaries are ready to make the following temporary arrangement for a period not exceeding two years, in order to afford a "*modus vivendi*" pending the ratification of the Treaty.

1. For a period not exceeding two years from the present date, the privilege of entering the bays and harbors of the Atlantic coasts of Canada and Newfoundland shall be granted to United States fishing vessels by annual Licenses at a fee of \$1½ per ton—for the following purposes:

The purchase of bait, ice, seines, lines, and all other supplies and outfits.

Transshipment of catch and shipping of crews.

2. If during the continuance of this arrangement, the United States should remove the duties on fish, fish-oil, whale and seal oil (and their coverings, packages, &c.), the said Licenses shall be issued free of charge.

3. United States fishing vessels entering the bays and harbors of the Atlantic coasts of Canada or of Newfoundland for any of the four purposes mentioned in Article I. of the Convention of October 20, 1818, and not remaining therein more than twenty-four hours, shall not be required to enter or clear at the custom house, providing that they do not communicate with the shore.

4. Forfeiture to be exacted only for the offences of fishing or preparing to fish in territorial waters.

5. This arrangement to take effect as soon as the necessary measures can be completed by the Colonial Authorities.

J. CHAMBERLAIN.
L. S. SACKVILLE WEST.
CHARLES TUPPER.

Washington, February 15, 1888.

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PROTOCOL.

The American Plenipotentiaries having received the communication of the British Plenipotentiaries of this date conveying their plan for the administration to be observed by the Governments of Canada and Newfoundland in respect of the Fisheries during the period which may be requisite for the consideration by the Senate of the Treaty this day signed, and the enactment of the legislation by the respective Governments therein proposed, desire to express their satisfaction with this manifestation of an intention on the part of the British Plenipotentiaries, by the means referred to, to maintain the relations of good neighborhood between the British Possessions in North America and the United States; and they will convey the communication of the British Plenipotentiaries to the President of the United States, with a recommendation that the same may be by him made known to the Senate for its information, together with the Treaty, when the latter is submitted to that body for ratification.

T. F. BAYARD.
WILLIAM L. PUTNAM.
JAMES B. ANGELL.

Washington, February 15, 1888.

House Ex. Doc. No. 84, Forty-sixth Congress, second session.

ALLEGED OUTRAGE AT FORTUNE BAY, NEWFOUNDLAND.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING,

In compliance with a resolution of the House of Representatives, the correspondence with the Government of Great Britain in regard to the alleged outrage upon American fishermen at Fortune Bay, Newfoundland.

MAY 17, 1880.—Referred to the Committee on Foreign Affairs and ordered to be printed.

To the House of Representatives :

In compliance with the resolution of the House of Representatives of the 27th ultimo, calling for copies of the correspondence with the Government of Great Britain in regard to the alleged outrage upon American fishermen at Fortune Bay, in the province of Newfoundland, I transmit herewith the correspondence called for, and a report from the Secretary of State on the subject.

In transmitting this correspondence and the report, I respectfully ask the immediate and careful attention of Congress to the failure of accord between the two Governments as to the interpretation and execution of the fishery articles of the treaty of Washington, as disclosed in this correspondence and elucidated by the exposition of the subject by the Secretary of State.

I concur in the opinions of this report as to the measures proper to be taken by this Government in maintenance of the rights accorded to our fishermen by the British concession of the treaty, and in providing for suitable action towards securing an indemnity for the injury these interests have already suffered.

Accordingly I recommend to Congress the adoption of these measures, with such attendant details of legislation as in the wisdom of Congress shall seem expedient.

R. B. HAYES.

WASHINGTON, May 17, 1880.

DEPARTMENT OF STATE,
Washington, May 17, 1880.

To the PRESIDENT:

The Secretary of State, to whom were referred the resolution of the House of Representatives of the 27th of April, ultimo, requesting the President, "if not inconsistent with the public interest, to transmit to this House copies of all correspondence, not now communicated, with the English Government relating to the alleged interference with American fishermen in Fortune Bay, on the 6th of January, 1878," and a resolution of the Senate of the 28th of the same month on the same subject, has the honor to lay before the President the correspondence as called for.

In connection with these papers, and for the better understanding of the subject to which this correspondence relates, I submit for your consideration the valuable report of Collector F. J. Babson and Alfred D. Foster, esq., of their visit on board the naval steam-ship *Kearsarge* to the provincial inshore fisheries under the instructions of the Department during the summer of last year, as well as their instructions under which this cruise of the *Kearsarge* was planned. This correspondence with the British Government, and this intelligent exposition of the attempted exercise by our fishermen of the freedom of the inshore fisheries as secured to them by the treaty of Washington, whose violent interruption gave occasion to this discussion between the two governments of the true measure of this treaty right, will, it is believed, with the record of the proceedings of the Halifax commission, and the correspondence and protest which preceded and attended our payment of the award, furnish complete materials upon which the judgment of Congress can be formed and its action determined in the juncture of this fishery contention now demanding its serious consideration.

The very grave occurrence at Fortune Bay in January, 1878, was brought by me to the attention of the British Government in March of that year, with the view of obtaining redress for our fishermen for the gross violence and serious loss they suffered in their expulsion from this inshore fishery which they were prosecuting under the treaty of Washington. The reply of the British Government did not reach me until September 4 of that year. It disclosed possible grounds for the rejection of our claims which put upon our rights in the inshore fisheries such limitations of subserviency to British provincial or imperial legislation as seemed to me wholly inadmissible. These grounds were that our fishermen were pursuing their industry on Sunday, contrary to a law of Newfoundland, passed subsequent to the treaty of Washington; that they were using seines to take herring, contrary to a law of Newfoundland proscribing that method of fishing for the six months of the year between October and April; that they were using such seines in a manner prohibited at any season of the year by a statute which precluded catching herrings by means of seines "except by way of shooting and forthwith hauling the same."

In communicating the report of the evidence which was intended to show the time and manner at and in which our fishermen were pursuing their right, as a justification for their interruption in it, Lord Salisbury observed: "You will perceive that the report in question appears to demonstrate conclusively that the United States fishermen on this occasion had committed three distinct breaches of the law." To this intimation, even, that the freedom of the fishery accorded by an imperial treaty either had been subtracted by past or could be curtailed by future provincial legislation, I lost no time in opposing an explicit and unconditional rejection of such an interpretation of the treaty. In a dispatch

STATE,
May 17, 1880.

to Mr. Welsh, on the 28th of September, I communicated to the British Government the views of this Government, as follows:

In this observation of Lord Salisbury this Government cannot fail to see a necessary implication that Her Majesty's Government conceives that in the prosecution of the right of fishing accorded to the United States by Article XVIII of the treaty, our fishermen are subject to the local regulations which govern the coast population of Newfoundland in their prosecution of their fishing industry, whatever those regulations may be, and whether enacted before or since the treaty of Washington.

The three particulars in which our fishermen are supposed to be constrained by actual legislation of the province cover in principle every degree of regulation of our fishing industry within the three-mile line which can well be conceived. But they are in themselves so important and so serious a limitation of the rights secured by the treaty as practically to exclude our fishermen from any profitable pursuit of the right, which, I need not add, is equivalent to annulling or canceling, by the provincial government, the privilege accorded by the treaty with the British Government.

If our fishing-fleet is subject to the Sunday laws of Newfoundland, made for the coast population; if it is excluded from the fishing-grounds for half the year, from October to April; if our "seines and other contrivances" for catching fish are subject to the regulations of the legislature of Newfoundland, it is not easy to see what firm or valuable measure for the privilege of Article XVIII as conceded to the United States this Government can promise to its citizens under the guarantee of the treaty. It would not under any circumstances be admissible for one government to subject the persons, the property, and the interests of its fishermen to the unregulated regulation of another government upon the suggestion that such authority will not be oppressively or capriciously exercised, nor would any government accept, as an adequate guarantee of the proper exercise of such authority over its citizens by a foreign government, that, presumptively, regulations would be uniform in their operation upon the subjects of both governments in similar case. If there are to be regulations of a common enjoyment, they must be authenticated by a common or joint authority.

But most manifestly the subject of the regulation of the enjoyment of the shore fishery by the resident provincial population, and of the inshore fishery by our fleet of fishing cruisers, does not tolerate the control of so divergent and competing interests by the domestic legislation of the provinces. Protecting and nursing the domestic interest at the expense of the foreign interest, on the ordinary motives of human conduct, necessarily shape and animate the local legislation. The evidence before the Halifax commission makes it obvious that to exclude our fishermen from catching bait, and thus compel them to go without bait, or buy bait at the will and price of the provincial fishermen, is the interest of the local fishermen, and will be the guide and motive of such domestic legislation as is now brought to the notice of this government.

You will therefore say to Lord Salisbury that this government can not but express its entire dissent from the view of the subject that his lordship's note seems to indicate. This government conceives that the fishery rights of the United States, conceded by the treaty of Washington, are to be exercised wholly free from the restraints and regulations of the statutes of Newfoundland, now set up as authority over our fishermen, and from any other regulations of fishing now in force, or that may hereafter be enacted by that government.

It may be said that a just participation in this common fishery by the two parties entitled thereto may, in the common interest of preserving the fishery and preventing conflicts between the fishermen, require regulation by some competent authority. This may be conceded; but should such occasion present itself to the common appreciation of the two governments, it need not be said that such competent authority can only be found in a joint convention that shall receive the approval of Her Majesty's Government and our own. Until this arrangement shall be consummated, this government must regard the pretension that the legislation of Newfoundland can regulate our fishermen's enjoyment of the treaty right as striking at the treaty itself.

It asserts an authority on one side and a submission on the other, which has not been proposed to us by Her Majesty's Government, and has not been accepted by this government. I can not doubt that Lord Salisbury will agree that the insertion of any such element in the treaty of Washington would never have been accepted by this government if it could reasonably be thought possible that it could have been proposed by Her Majesty's Government. The insertion of any such proposition by construction now is equally at variance with the views of this government.

The representation made to this government by the interests of our citizens affected leave no room to doubt that this assertion of authority is as serious and extensive in practical relations as it is in principle. The rude application made to the twenty vessels in Fortune Bay, of this asserted authority, in January last, drove them from the profitable prosecution of their projected cruises. By the same reason the entire inshore fishery is held by us upon the same tenure of dependence upon the Parliament of the Dominion or the legislatures of the several provinces.

In the opinion of this Government, it is essential that we should at once invite the attention of Lord Salisbury to the question of provincial control over the fishermen of the United States in their prosecution of the privilege secured to them by the treaty. So grave a question, in its bearing upon the obligations of this Government under the treaty, makes it necessary that the President should ask from Her Majesty's Government a frank avowal or disavowal of the paramount authority of provincial legislation to regulate the enjoyment by our people of the inshore fishery, which seems to be intimated, if not asserted, in Lord Salisbury's note.

Before the receipt of a reply from Her Majesty's Government, it would be premature to consider what should be the course of this Government should this limitation upon the treaty privileges of the United States be insisted upon by the British Government as their construction of the treaty.

In answer to this unequivocal presentation, both of the freedom of the fishery as this Government interpreted the concession of the treaty, and of the absolute suppression of this treaty right, as a matter of practical value to our fishermen by this actual provincial legislation, Lord Salisbury replied with less distinctness, no doubt, but yet in a sense which I could not but regard as disclaiming any right to qualify the treaty by municipal legislation previous or subsequent to its date. After intimating a dissent from the doctrine, if I had intended to assert it, "that no British authority has any right to pass any kind of law binding Americans who are fishing in British waters," Lord Salisbury says:

On the other hand, Her Majesty's Government will readily admit what is, indeed, self-evident, that British sovereignty, as regards these matters, is limited in its scope by the engagements of the Treaty of Washington, which can not be modified or affected by any municipal legislation. I can not anticipate that with regard to these principles, any difference will be found to exist between the views of the two Governments. If, however, it be admitted that the Newfoundland legislators have the right of binding Americans who fish within their waters, by any laws which do not contravene existing treaties, it must further be considered that the duty of determining the existence of any such contravention must be undertaken by the Governments, and can not be remitted to the discretion of each individual fisherman, for such a discretion, if exercised on one side, can hardly be refused on the other. * * * Her Majesty's Government prefer the view that the law enacted by the legislature of the country, whatever it may be, ought to be obeyed by natives and foreigners alike who are sojourning within the territorial limits of its jurisdiction, but that if a law has been inadvertently passed which is in any degree or respect at variance with rights conferred on a foreign power by treaty, the correction of the mistake as committed, at the earliest period after its existence shall have been ascertained and recognized, is a matter of international obligation.

This dispatch was received by me in November, and on the 23d of the same month the payment of the award of the Halifax Commission was made at the date provided in the treaty. The further consideration of the Fortune Bay claims seemed to require only the verification of the facts on the part of our claimants, so far as they were drawn in question by, or were at variance with, the report made to the British Government by its officers, and the communication to that Government of the results as finally insisted upon by us as the basis and measure of our claims. The correspondence called for by Congress and now submitted, shows the entire rejection of the claims on the grounds set forth in Lord Salisbury's dispatch of the 3d of April last.

Before considering the main proposition of the British Government, by which a direct and flat denial of the freedom of the inshore fisheries as claimed by this Government is interposed, I need to bring to attention two subordinate pretensions of Lord Salisbury's dispatch intended to fortify his main proposition.

It appeared that in the management of one, at least, of the seines at Fortune Bay our fishermen had used the strand for a temporary service in the process of inclosing the school of herring within the seine. This incident in the operation, in the original correspondence as in the transaction itself a mere subordinate feature of the process of seining com-

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plained of, is now made prominent in the dispatch of Lord Salisbury. There being no allegation that this use of the strand violates any provincial regulation of the fisheries, the point is made that the freedom of the fisheries accorded by the treaty itself, in terms, excludes our fishermen from this incidental use of the strand in the process of taking fish by seines. A true interpretation of the treaty concession gives no support to this pretension. The concession of fishing is "to take fish of every kind, except shell-fish, on the *sea coasts and shores*, and in the bays, harbors, and creeks of the provinces * *, without being restricted to any distance from the shore." Besides this concession of fishing, which manifestly covers the use of the strand in the process of taking fish, a further permission to land upon the coasts and shores is conceded to our fishermen for the independent purpose of using the land for "drying their nets and curing their fish."

The contention seems to be that because specific permission to use the land for purposes not included in the process of "taking fish" is given in terms, therefore the use of the strand in the process of "taking fish" is excluded, though in the nature of the process of taking fish the temporary use of the strand in managing the seines is a part of inshore fishing. This faulty reasoning is not helped at all by the proviso of the treaty, that our fishermen, in using their right on shore, shall not "interfere with the rights of private property or with British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose." If this proviso does not include the use of the strand in taking fish, it does not qualify the fishing concession. If it does include that use of the strand, then it construes such use as within the fishing concession, and qualifies it by the observance of private property on shore and non-interference with British fishermen using the strand in their fishing.

Lord Salisbury's reference to the argument of Mr. Foster before the Halifax Commission, on the independent subject of the commercial privileges for which the British case demanded compensation in the awards (and which were rejected by the Commission as not within the purview of the treaty), for the doctrines of this Government in regard to the use of the strand as an incident of the inshore fishery concession needs no serious comment here. If the "case" of either Government could fairly be referred to as maintaining propositions to which it should be held in this contention, the special arguments *pro* and *con* of counsel can not usefully be resorted to for this purpose.

In this interlocutory argument on the commercial question, the British counsel, in answering Mr. Foster, maintained the opposite construction of the treaty. Neither view had any important relation to the subject then under discussion.

The second topic of Lord Salisbury's dispatch, from which aid is sought for his main proposition, is the presentation of Mr. Marcy's circular to the collectors of customs, while the reciprocity treaty was in force, for promulgation among our fishermen, the whole text of which Lord Salisbury incorporates in his note.

In the full copy of this circular, which is appended (No. 5) to the Babson and Foster report, the fishery regulations of the provinces to which it relates are recited, and a reference to these is sufficient to displace any inference that this Government has assented to any curtailment, past or previous, by provincial legislation, of the freedom of the inshore fishery, as conceded to our fishermen by the terms of the reciprocity treaty or the treaty of Washington. One of these regulations relates to the demarkation of "gurry grounds," and the other to the

reservation of spawning grounds, during the spawning season, from invasion. "Gurry," or the offal of fish, was supposed to infect the waters, and the regulation was not of the right of taking fish, but of poisoning them. The care of the spawning beds in spawning season, in like manner, was a regulation of the breeding of fish, not a regulation of modes of American fishing. Both these regulations met the approval of this Government and were required by Mr. Marey to be respected by our fishermen, for this reason, and in the sense of being within the reasonable province of local civil jurisdiction, and not encroaching upon the province of freedom of the fishery as imparted by the reciprocity treaty. But the right of this Government to inspect all such laws and pass upon them as falling one side or the other of the line thus firmly drawn is explicitly stated by Mr. Marey. He says, "should they be so framed or executed as to make any discrimination in favor of British fishermen, or to impair the rights secured to American fishermen by that treaty, those injuriously affected by them will appeal to this Government for redress." Accordingly, the fishermen are directed to make complaint upon the case arising, either in respect to any law or its execution, "in order that the matter may be arranged by the two Governments."

The position of this Government, as laid down in my dispatch of September 28, 1878, is, therefore, unembarrassed by any attitude in this contention, heretofore taken in any diplomatic discussion of parallel treaty engagements. Any particular interpretation of the treaty as to the right to use the strand in fishing with seines, ceases to be of significance, in the issue now joined with the British Government, because the provincial laws in question prohibit the use of the seines at all, and the main proposition of the British Government subjects our treaty rights to such legislation. So, too, the scope of this main proposition can be neither obscured nor confused by the irrelevant consideration of the local jurisdiction, within three miles of the shore, over persons or property, of the running of civil or criminal process, of health or police regulations, of territorial sovereignty in the abstract. The issue between the two Governments is as to what regulations of the freedom of the fishery, in the very matter of the time and manner of taking fish, remain a part of British sovereignty over the fishery, under the color of sovereignty over the place, when exclusive sovereignty over the fishery has been parted with by Great Britain, and a participation in such fishery has been acquired by the United States, in the terms and on the considerations of the Treaty of Washington.

Upon this issue the position of this Government was notified to the British Government in September, 1878, as follows:

This Government conceives that the fishery rights of the United States conceded by the Treaty of Washington are to be exercised wholly free from the restraints and regulations of the statutes of Newfoundland, now set up as authority over our fishermen, and from any other regulations of fishing now in force or that may hereafter be enacted by that Government.

Upon this issue the position of the British Government is now notified to us by the dispatch of Lord Salisbury, of April 3, ultimo, as follows. Referring to these statutes of Newfoundland, Lord Salisbury says:

Those regulations, which were in force at the date of the Treaty of Washington, were not abolished, but confirmed by the subsequent statutes, and are binding under the treaty upon the citizens of the United States in common with British subjects. The United States fishermen, in landing for the purpose of fishing at Tickle Beach, in using seine at a prohibited time, and in barring herrings with seines from the shore, exceeded their treaty privileges and were engaged in unlawful acts.

Lord Salisbury further states that Her Majesty's Government "have always admitted the incompetence of the colonial or the imperial legis-

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There are but two grounds upon which the subordination of the United States' freedom of the inshore fisheries to imperial or provincial legislation, curtailing or burdening that freedom, ever has been, or, in the nature of the case, can be placed.

The first is that of reserved general sovereignty within the three-mile limit, under cover of which it is pretended there lurked in the concession of the freedom of this fishery to the United States, in common with Great Britain, the power of one party in the privilege of this common fishery to regulate the enjoyment of it by the other. The statement of this proposition confutes it. The United States would have acquired nothing of right, if the concession was constantly subject to the will of Great Britain for its exercise and enjoyment. Accordingly, Lord Salisbury disclaims this pretension as ever having been held by the British Government as a reserved power capable of exercise by any regulations subsequent to the date of the treaty of Washington. But, manifestly, antecedent regulations, as having force subsequent to the treaty, can not be sustained upon the ground of sovereignty over the treaty concessions by any better reason than new legislation of that quality and effect. If the treaty predominates over subsequent provincial legislation, encroaching upon the treaty concessions, by stronger reason it supplants previous provincial legislation subversive or restrictive of the treaty concession. If such previous legislation persists after the treaty comes into operation, it must be because the treaty in terms or by just interpretation accepts this previous legislation as a part of itself. But this is the predominance of the treaty and not of the legislation, which thenceforth owes its vigor to the stipulations of the treaty by which the United States adopts and confirms the provincial legislation in force at its date. This is in substance the British contention, and, in the failure of the doctrine of reserved sovereignty, is the only alternative basis of the present proposition of the British Government.

The subject thus brought into dispute at this late date in the progress of the fishery negotiations between the two countries is simply what the fishery in provincial waters, which the British Government had at its disposal and which we acquired at its hand, as a matter of property and beneficial enjoyment, really was.

That the British proprietorship in and dominion over this inshore fishery was perfect, absolute, and without incumbrance or limitations, and that this was the subject concerning which the negotiations were occupied and by and to which the treaty equivalents were to be measured and applied was certainly never doubted by the negotiators of this treaty on the part of the United States or of Great Britain. Whatever this fishery was in its natural extent and value, in its geographical area, and its multitude and variety of fish products, that was the subject of which Great Britain possessed the *jus disponendi*, and that the subject of which the United States proposed to acquire an undivided share. The proportion of this fishery which Great Britain was to part with and the United States was to appropriate does not affect the question of what the entire property was and was understood to be. Whatever the United States would have acquired had Great Britain parted with the whole fishery, the subject partitioned between them was this entirety, no matter what the shares in which it was to be enjoyed might be.

It is equally clear that the negotiators on both sides assumed that Great Britain was dealing with this subject as sole owner, and that it

had impaired neither its title nor its possession by any previous grant or incumbrance. Whatever right and enjoyment then, by proprietorship and dominion, Great Britain in its political sovereignty could impart to "the subjects of Her Britannic Majesty," that right and enjoyment Great Britain could impart "to the inhabitants of the United States."

This being the subject of the grant, and this the title and possession of the grantor, what is the treaty description of the estate, right, and privilege granted to the United States for the enjoyment of its citizens? The text of the fishery articles of the Treaty of Washington shows that there was no limitation whatever upon the grant, except that the estate, right, and privilege granted were to endure but for a term of years, and were to be enjoyed by the United States not exclusively, but in common with Great Britain. There was, to be sure, a restriction imposed upon both countries which excluded both equally from extending the enjoyment of either's share of the common fishery beyond the "inhabitants of the United States" on the one side and "Her Britannic Majesty's subjects" on the other, thus disabling either Government from impairing the share of the other by introducing foreign fishermen into the common fishery. But this feature in the grant has no significance in the measure of the concession as now disputed by Great Britain and contended for by the United States.

The British contention imputes to the phrase of the treaty, "in common with the subjects of Her Britannic Majesty," not only its manifest effect of excluding any possible conclusion that the privilege conceded to the United States was exclusive, but the further effect of measuring the subject of the grant—that is, the fishery itself—as it was then, at the very date of the treaty, regulated by the various laws of the maritime provinces.

For this interpolation there seems no justification either in reason or in the history of the negotiation. There is not the least evidence that it was present to the mind of either of the high contracting parties to the treaty that the subject of the fishery to be partitioned between them was any less than such as it was in its natural dimensions and quality, and such as it was, as a subject of human control, at the unlimited disposal of British sovereignty. What these provincial laws were no one inquired and no one disclosed. That the fishery our sea-going fishermen were to share in, was a fishery regulated by and for the local population fishing from the shore, no one conceived. That the title of Great Britain should be examined, or warranty against adverse title and possession or against incumbrances exacted, would have seemed both foolish and offensive to the High Joint Commission which negotiated this treaty. To the apprehension of all, the map and the statistics of the catch showed what the fishery was in extent and value, and the domination of Great Britain over the subject measured the security of the right which we were to acquire.

The proposition of Lord Salisbury reduces the grant of the fishery from the dimensions of the fishery as Great Britain had power to convey it, and by its mere natural description would convey it, to the fishery as it had been trimmed and curtailed by local legislation and was to be regulated by local administration. He reduces our enjoyment from a freedom of the fishery, such as the plenary political power of Great Britain could impart to its subjects and could share with the United States, to be enjoyed by their inhabitants, to the use of the fishing methods and seasons of the provincial coast population, as their families and occasions had arranged them; and this interpretation of the

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Fortunately, the closing transaction between the two Governments, by which the fishery concession to the United States was to be measured and valued, and compensation on our part therefor to be adjusted according to the measure and value of the provincial fishery, not in the abstract, but as opened to our fishermen, furnished an opportunity to take the estimate both of the British and provincial Governments of the extent and comprehension of the subject of the grant. This transaction antedates the present disputation and brings the two Governments together in a computation before the Halifax Commission of the nature, extent, and benefit of the inshore provincial fishery.

The considerations for the British concession were threefold. First, an equivalent fishery concession on our own coasts; second, exemption of provincial fish products from duties, or the concession of our free market; third, such supplemental money payment as the nature, extent, and value of the British fishery concession, in the judgment of the Halifax Commission, would warrant or require. It would be enough to say that the present pretensions of the British Government in reduction of the grant were not presented in depreciation of the price we were to pay, nor was any subjection of the natural fishery to political or municipal disparagement advanced by us in reduction of the money value with which we were to be charged. But the British and provincial Governments are precluded from the present pretensions not by silence alone as to these latent limitations and incumbrances upon the grant, when its price was being adjusted by the Halifax award. The "Case" of the British Government presents in the most open and unequivocal terms the measure of the grant, in the sense both of benefit to the United States and of injury to the provincial fishermen. The conduct of the contention throughout maintained the freedom of the fishery to the methods and occasions of our fishing enterprise and skill, and insisted upon the *right accorded* (which might exhaust and destroy the fisheries so as to depreciate their benefit to the coast population, even beyond the treaty period), and not its actual exercise by our fishermen, as the standard of estimate by which our money payment was to be fixed.

In "the Case of Her Majesty's Government," submitted to the Halifax Commission, the following language is used to illustrate and enforce the advantage in the extent and method of fishing secured by the treaty of 1871 over the restrictions of the convention of 1818:

The convention of 1818 entitled United States citizens to fish on the shores of the Magdalen Islands, but denied them the privilege of landing there. *Without such permission the practical use of the inshore fisheries was impossible.* Although such permission has tacitly existed, as a matter of suzerainty, it might at any moment have been withdrawn, and the operations of United States fishermen in that locality would thus have been rendered ineffectual. The value of these inshore fisheries is great; mackerel, herring, halibut, capelin, and lance abound, and are caught inside of the principal bays and harbors, where they resort to spawn. Between three hundred and four hundred United States fishing vessels yearly frequent the waters of this group, and take large quantities of fish, both for curing and bait. A single seine has been known to take at one haul enough of herrings to fill 3,000 barrels. Seining mackerel is similarly productive. During the spring and summer fishery of the year 1875, when the mackerel were closer inshore than usual, the comparative failure of the American fishermen was owing to their being unprepared with suitable hauling nets and small boats, *their vessels being unable to approach close enough to the beaches.*

In the case of the remaining portions of the seaboard of Canada, the terms of the convention of 1818 debarred United States citizens from landing at any part for the *purpose of operations connected with fishing.* *This privilege is essential to the successful prosecution of both the inshore and deep-sea fisheries.* By it they would be enabled to

prepare their fish in a superior manner, in a salubrious climate, as well as more expeditiously, and they would be relieved of a serious embarrassment as regards the disposition of fish offals, by curing on shore the fish which otherwise would have been dressed on board their vessels, and the refuse thrown overboard.

All the advantages above detailed have been secured for a period of twelve years to United States fishermen. Without them, fishing operations on many parts of the coast would be not only unremunerative but impossible; and they may therefore be fairly claimed as an important item in the valuation of the liberties granted to the United States under Article XVIII of the Treaty of Washington. (Halifax Com., Vol. I, p. 93.)

And again:

4. Formation of fishing establishments.

The privilege of establishing permanent fishing-stations on the shores of Canadian bays, creeks, and harbors, akin to that of landing to dry and cure fish, is of material advantage to United States citizens.

There are further advantages derivable from permanent establishments ashore, such as the accumulation of stock and fresh fish preserved in snow or ice, and others kept in frozen and fresh state by artificial freezing. (*Ib.*, pp. 94, 95.)

In that portion of the same "case" which specially regards the character of the Newfoundland fishery, and points out with elaborate precision the rights of the United States fishermen on the shores of that island and the compensation demanded therefor, the British Government says:

I. The entire freedom of the inshore fisheries.

Newfoundland, from that part of its coast now thrown open to United States fishermen, yearly extracts, at the lowest estimate, \$5,000,000 worth of fish and fish-oil, and when the value of fish used for bait and local consumption for food and agricultural purposes, of which there are no returns, is taken into account, the total may be fairly stated at \$6,000,000 annually.

It may possibly be contended on the part of the United States that their fishermen have not in the past availed themselves of the Newfoundland inshore fisheries, with but few exceptions, and that they would and do resort to the coasts of that island only for the purpose of procuring bait for the bank fishery. This may up to the present time, to some extent, be true, as regards codfish, but not as regards herring, turbot, and halibut. It is not at all probable that, possessing as they now do the right to take herring and capelin for themselves on all parts of the Newfoundland coasts, they will continue to purchase as heretofore, and they will thus prevent the local fishermen, especially those of Fortune Bay, from engaging in a very lucrative employment, which formerly occupied them during a portion of the winter season for the supply of the United States market.

The words of the treaty of Washington, in dealing with the question of compensation, make no allusion to what use the United States may or do make of the privileges granted them, but simply state that, inasmuch as it is asserted by Her Majesty's Government that the privileges accorded to the citizens of the United States under Article XVIII are of greater value than those accorded by Articles XIX and XXI to the subjects of Her Britannic Majesty, and this is not admitted by the United States, it is further agreed that a commission shall be appointed, having regard to the privileges accorded by the United States to Her Britannic Majesty's subjects in Articles Nos. XIX and XXI, the amount of any compensation to be paid by the Government of the United States to that of Her Majesty in return for the privileges accorded to the United States under Article XVIII.

It is asserted, on the part of Her Majesty's Government, that the actual use which may be made of this privilege at the present moment is not so much in question as the actual value of it to those who may, if they will, use it. It is possible and even probable, that United States fishermen may at any moment avail themselves of the privilege of fishing in Newfoundland inshore waters to a much larger extent than they do at present; but even if they should not do so, it would not relieve them from the obligation of making the just payment for a right which they have acquired subject to the condition of making that payment. The case may be not inaptly illustrated by the somewhat analogous one of a tenancy of shooting or fishing privileges; it is not because the tenant fails to exercise the rights which he has acquired by virtue of his lease that the proprietor should be debarred from the recovery of his rent.

There is a marked contrast, to the advantage of the United States citizens, between the privilege of access to fisheries the most valuable and productive in the world, and the barren right accorded to the inhabitants of Newfoundland of fishing in the exhausted and preoccupied waters of the United States north of the thirty-ninth parallel of north latitude, in which there is no field for lucrative operations even if British

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subjects desired to resort to them; and there are strong grounds for believing that year by year, as United States fishermen resort in greater numbers to the coasts of Newfoundland for the purpose of procuring bait and supplies, they will become more intimately acquainted with the resources of the inshore fisheries and their unlimited capacity for extension and development. As a matter of fact, United States vessels have, since the Washington treaty came into operation, been successfully engaged in these fisheries; and it is but reasonable to anticipate that, as the advantages to be derived from them become more widely known, larger numbers of United States fishermen will engage in them.

A participation by fishermen of the United States in the freedom of these waters must, notwithstanding their wonderfully reproductive capacity, tell materially on the local catch, and, while affording to the United States fishermen a profitable employment, must seriously interfere with local success. The extra amount of bait also which is required for the supply of the United States demand for the bank fishery must have the effect of diminishing the supply of cod for the inshores, as it is well known that the presence of that fish is caused by the attraction offered by a large quantity of bait fishes, and as this quantity diminishes the cod will resort in fewer number to the coast. The effect of this diminution may not in all probability be apparent for some years to come, and whilst United States fishermen will have the liberty of enjoying the fisheries for several years in their present teeming and remunerative state, the effects of overfishing may, after their right to participate in them has lapsed, become seriously prejudicial to the interests of the local fishermen. (*Ib.*, pp. 103, 104.)

It is impossible to offer more convincing testimony as to the value to United States fishermen of securing the right to use the coast of Newfoundland as a basis of operations for the bank fisheries than is contained in the declaration of one who has been for six years so occupied, sailing from the ports of Salem and Gloucester, in Massachusetts, and who declares that it is of the greatest importance to United States fishermen to procure from Newfoundland the bait necessary for those fisheries, and that such benefits can hardly be overestimated; that there will be during the season of 1876, upward of 200 United States vessels in Fortune Bay for bait, and that there will be upward of 300 vessels from the United States engaged in the Grand Bank fishery; that, owing to the great advantage of being able to run into Newfoundland for bait of different kinds, they are enabled to make four trips during the season; that the capelin, which may be considered as a bait peculiar to Newfoundland, is the best which can be used for this fishery, and that a vessel would probably be enabled to make two trips during the capelin season, which extends over a period of about six weeks. The same experienced deponent is of opinion that the bank fisheries are capable of immense expansion and development, and that the privilege of getting bait on the coast of Newfoundland is indispensable for the accomplishment of this object.

As an instance of the demand for bait supplies derived from the Newfoundland inshore fisheries, it may be useful to state that the average amount of this article consumed by the French fishermen, who only prosecute the bank fisheries during a period of about six months of the year, is from \$120,000 to \$160,000 annually. *The herring, capelin, and squid amply meet these requirements, and are supplied by the people of Fortune and Placentia Bays, the produce of the islands of St. Pierre and Miquelon being insufficient to meet the demand.*

It is evident from the above consideration that not only are the United States fishermen almost entirely dependent on the bait supply from Newfoundland, now open to them, for the successful prosecution of the bank fisheries, but also that they are enabled, through the privileges conceded to them by the treaty of Washington, to largely increase the number of their trips, and thus considerably augment the profits of the enterprise. This substantial advantage is secured at the risk, as before mentioned, of hereafter depleting the bait supplies of the Newfoundland inshores, and it is but just that a substantial equivalent should be paid by those who profit thereby.

We are therefore warranted in submitting to the commissioners that not only should the present actual advantages derived on this head by United States fishermen be taken into consideration, but also the probable effect of the concessions made in their favor. The inevitable consequence of these concessions will be to attract a larger amount of United States capital and enterprise following the profits already made in this direction, and the effect will be to inflict an injury on the local fishermen, both by the increased demand on their sources of supply and by competition with them in their trade with foreign markets. (*Ib.*, pp. 105, 106.)

CONCLUSION.

It has thus been shown that under the treaty of Washington there has been conceded to the United States—

First. The privilege of an equal participation in a fishery vast in area, teeming with fish, continuously increasing in productiveness, and now yielding to operatives, very limited in number when considered with reference to the field of labor, the large an-

nual return of upwards of \$6,000,000, of which 20 per cent. may be estimated as net profit, or \$1,200,000.

It is believed that the claim on the part of Newfoundland in respect of this portion of the privileges acquired by United States citizens under the Treaty of Washington will be confined to the most moderate dimensions when estimated at one-tenth of this amount, namely, \$120,000 per annum, or, for the twelve years of the operation of the treaty, a total sum of \$1,440,000. (*Ib.*, pp. 107, 108.)

To this "case" the United States Government filed an answer, and the British Government filed a reply to the answer, in which it repeated its contention:

The words "*for no other purpose whatever*" are studiously omitted by the framers of the last-named treaty, and the privilege IN COMMON with the subjects of Her Britannic Majesty, to take fish and to land for fishing purposes, clearly includes the liberty to purchase bait and supplies, transship cargoes, &c., for which Her Majesty's Government contend it has a right to claim compensation.

It is clear that these privileges were not enjoyed under the convention of 1818, and it is equally evident that they are enjoyed under the treaty of Washington. (*Ib.*, p. 173.)

As regards the herring fishery on the coast of Newfoundland, it is availed of to a considerable extent by the United States fishermen, and evidence will be adduced of large exportations by them in American vessels, particularly from Fortune Bay and the neighborhood, both to European and their own markets.

The presence of United States fishermen upon the coast of Newfoundland, so far from being an advantage, as is assumed in the Answer, operates most prejudicially to Newfoundland fishermen. Bait is not thrown overboard to attract the fish, as asserted, but the United States bank fishing vessels, visiting the coast in such large numbers as they do for the purpose of obtaining bait, sweep the coves, creeks, and inlets, thereby diminishing the supply of bait for local catch, and scaring it from the grounds where it would otherwise be an attraction to the cod. (*Ib.*, p. 186.)

It forms no part of my purpose in this report to adduce, in argument or proof, the manifold supports to the view now presented which the record of the diplomatic history of the fishery negotiations between the two countries or the documents and proceedings of the Halifax Commission contain. It is very apparent throughout them both that the obliteration of the sea-line of demarkation between the rights of our fishermen and those of British fishermen we regarded of principal value, as removing the sources of irritation between them and possible occasions of controversy and estrangement between the two nations. In my despatch to Mr. Welsh of September 27, 1878, I laid before the British Government this disposition on our part as furnishing the leading purpose in the framing of the fishery articles of the treaty of Washington. I then said that—

Politically, and in the interest of good neighborhood, this government did regard and at all times would regard, the restoration of the relations between the two countries, in the common enjoyment of these fisheries, to the ancient footing of the treaty of 1783, as most grateful in sentiment and as a most valuable guarantee against any renewal of strife.

In the British "Case" before the Halifax Commission, Her Majesty's Government definitely insisted upon this assured position of our public relations in this regard as an element of consideration in the award they asked from the Commission. Her Majesty's Government drew the attention of the Commissioners—

To the great importance attaching to the beneficial consequences to the United States of honorably acquiring for their fishermen full freedom to pursue their adventurous calling without incurring constant risks and exposing themselves and their fellow countrymen to the inevitable reproach of willfully trespassing on the rightful domain of friendly neighbors. Paramount, however, to this consideration is the avoidance of irritating disputes, calculated to disquiet the public mind of a spirited and enterprising people, and liable always to become a cause of mutual anxiety and embarrassment.

It was repeatedly stated by the American members of the Joint High Commission at Washington, in discussing proposals regarding the Canadian fisheries, "that the United States desired to secure their enjoyment, not for their commercial or intrinsic value, but for the purpose of removing a source of irritation."

The experience of our Fortune Bay fishermen in their first attempt, in the sixth year of the running of the treaty, to exercise on the coast of Newfoundland the "full freedom to pursue their adventurous calling," which Her Majesty's Government said had been honorably acquired for them by their own Government, is exhibited in the papers now submitted, as is also the treatment of their grievance, and this Government's presentation of it, accorded by Her Majesty's Government.

The British Government claimed before the Halifax Commission the sum of \$120,000 per annum during the twelve years of the treaty period, or the gross sum of \$1,440,000, for the advantage to the United States of the fishing privilege proper on the Newfoundland coast alone, conceded by the treaty, over and above the counter concessions of our inshore fishery, and the remission of duty on their fish products. The Halifax award of \$5,500,000, for the Dominion of Canada and Newfoundland together, has been divided between them by the British Government, and the sum of \$1,000,000 has been received by Newfoundland as its share of the money payment made by the United States under the treaty.

It will be observed that under the British view of the exposure of our fishermen at Fortune Bay to the penalties of infractions of the provincial laws, while they were enjoying in their own opinion and that of this Government the full freedom of the fishery accorded by the treaty, there is no pretense that the violence offered them and the wanton destruction of their fishing property and spoliation of their draught of fishes find any warrant in the supremacy of violated laws under color of which the British Government has refused them any indemnity.

In this attitude of the British Government, as taken in the correspondence, the violent expulsion of our fishermen from their fishery on the 6th of January, 1878, by the coast fishermen of Newfoundland, seems to be justified if not espoused. This position, too, of that Government necessarily carries a warning that any future attempt by our fishermen to exercise their treaty privilege, except in conformity to the local fishing regulations, will be resisted by the authority of the British Government, as well as exposed to the violence of the coast fishermen.

Under this unhappy and unexpected failure of accord between the two governments as to the measure of the inshore fishing privilege secured to our fishermen by the treaty of Washington, as developed in this correspondence, it becomes the imperative duty of this Government to consider what measures should be taken to maintain the rights of our people under the treaty, as we understand them, and to obtain redress for their expulsion from the enjoyment of their rights.

So far as this diminution of these privileges calls for a reconsideration of the treaty equivalents already parted with by this Government and received by Great Britain, as suitable to the failure of the privileges thus purchased and paid for, by this denial of their exercise so as to be valuable or desirable to our people, that subject necessarily must be remitted to diplomatic correspondence. The only continuing consideration the United States is paying for the treaty period, for the expected enjoyment of the treaty concession, is the remission of our customs duties upon the fish products of the provincial share in these fisheries. I respectfully advise that it be recommended to Congress to re-impose the duties upon fish and fish-oil, the products of the provincial fisheries,

as they existed before the treaty of Washington came into operation, to so continue until the two Governments shall be in accord as to the interpretation and execution of the fishery articles of the treaty of Washington, and in the adjustment of the grievance of our fishermen from the infractions of their rights under that treaty.

This measure will give to our fishermen, while excluded from the enjoyment of the inshore fisheries under the continued enforcement of the British interpretation of the treaty, a restoration of the domestic market for the products of their own fishing industry, as it stood before its freedom was thrown open to the provincial fishermen in exchange for the free fishery opened to our fishermen.

I respectfully advise, also, submitting to the consideration of Congress the propriety of authorizing the examination and auditing of the claims of our fishermen for injuries suffered by the infraction or denial of their treaty privileges, with the view of some ultimate provision by convention with Great Britain or by this Government for their indemnity.

WM. M. EVARTS.

LIST OF ACCOMPANYING DOCUMENTS.

- No. 1. Mr. Evarts to Mr. Welsh, No. 33, March 2, 1878.
 - No. 2. Mr. F. W. Seward to Mr. Welsh, No. 55, April 6, 1878 (with two inclosures, printed with document No. 26).
 - No. 3. Mr. Evarts to Mr. Welsh, No. 67, April 26, 1878, with an inclosure.
 - No. 4. Mr. Hoppin to Mr. Evarts, No. 5, May 4, 1878, with three inclosures.
 - No. 5. Mr. F. W. Seward to Mr. Welsh, No. 125, August 13, 1878.
 - No. 6. Mr. Welsh to Mr. Evarts, No. 132, August 24, 1878, with an inclosure.
 - No. 7. Mr. Evarts to Mr. Welsh, No. 150, September 28, 1878.
 - No. 8. Same to same, No. 174, November 8, 1878.
 - No. 9. Mr. Welsh to Mr. Evarts, No. 159, November 9, 1878. One inclosure with 11 appendices annexed.
- [NOTE.—The last seven of these appendices are printed with document No. 26.]
- No. 10. Mr. Evarts to Mr. Welsh, No. 347, August 1, 1879, with two inclosures.
 - No. 11. Mr. Welsh to Mr. Evarts, No. 347, August 13, 1879, with one inclosure.
 - No. 12. Mr. F. W. Seward to Mr. Hoppin, No. 361, August 28, 1879.
 - No. 13. Mr. Evarts to Mr. Hoppin, telegram, November 20, 1879.
 - No. 14. Mr. Hoppin to Mr. Evarts, No. 111, November 22, 1879, with one inclosure.
 - No. 15. Same to same, No. 112, November 25, 1879, with one inclosure.
 - No. 16. Same to the same, No. 113, November 28, 1879, with one inclosure.
 - No. 17. Mr. Evarts to Mr. Hoppin, No. 412, January 15, 1880.
 - No. 18. Same to the same, telegram, February 5, 1880.
 - No. 19. Mr. Hoppin to Mr. Evarts, No. 143, February 7, 1880.
 - No. 20. Same to the same, No. 147, February 10, 1880.
 - No. 21. Same to the same, No. 150, February 14, 1880, with one inclosure.
 - No. 22. Same to the same, unofficial letter, February 14, 1880, with one inclosure.
 - No. 23. Mr. Evarts to Mr. Hoppin, telegram, February 26, 1880.
 - No. 24. Mr. Hoppin to Mr. Evarts, No. 156, February 27, 1880, with one inclosure.
 - No. 25. Same to the same, No. 163, March 9, 1880, with one inclosure.
 - No. 26. Same to the same, No. 170, April 6, 1880, with two inclosures, namely:
 1. Lord Salisbury to Mr. Hoppin, April 3, 1880, with printed appendices containing depositions, &c.
 2. Mr. Hoppin to Lord Salisbury, April 6, 1880.
 - No. 27. Mr. Evarts to Collector Babson, August 5, 1879.
 - No. 28. Mr. Evarts to Sir Edward Thornton, August 5, 1879.
 - No. 29. Report of Messrs. Babson and Foster, Boston, September 29, 1879, with accompaniments.

DOCUMENT No. 1.

Mr. Evarts to Mr. Welsh.

No. 33.]

DEPARTMENT OF STATE,
Washington, March 2, 1878.

SIR: Complaints have reached the department of serious interference with American fishermen engaged during the present season in the herring fishery on the coast of Newfoundland, especially in the neighborhood of Long Harbor. The complaints come through various sources; first, from the United States consuls in that province; the consuls confining themselves, however, to general statements, based on representations made to them by fishermen immediately affected at the time of the occurrences, which form the grounds of complaints. Still more recently, however, these complaints have been preferred in a more specific manner, supported by affidavits of the masters of several fishing vessels owned and fitted out at Gloucester, Mass. From these statements it appears that about the 6th of January last no less than eight schooners from the above-named port, while engaged in the herring fishery at and in the neighborhood of Long Harbor, were attacked by the inhabitants to the number in one instance of 60 men, and in another 200 or more, and their seines, which were set and in most cases full of fish, cut and destroyed, and the fish, in one case to the amount of 5,000 barrels, and in others only less in quantity and value, scattered and run out to sea, resulting, beside the great loss of property, in the vessels being obliged to return to their home port in ballast, and also to abandon their fishing enterprise for the season.

When it is remembered at what considerable expense the preparations are made for a season's fishing in these northern latitudes, and that very many of the men, both masters and mariners, embark their all in the enterprise, the serious character of these losses may be partially understood.

Instructions have been sent to the consuls to transmit fuller information on the subject, and this will be furnished you as soon as it shall have been received. In the mean time it is deemed advisable to instruct you to bring the matter to the attention of Her Majesty's Government, and to request that it will cause an investigation to be made into the alleged facts of the case, and to adopt such measures as may be found necessary, not only to put an end to the evil, but also to prevent a recurrence of acts which, in addition to the injuries and losses to individuals, may have a tendency to complicate the good relations which so happily subsist between this government and that of Her Britannic Majesty.

I am, &c.,

W. M. EVARTS.

DOCUMENT No. 2.

Mr. F. W. Seward to Mr. Welsh.

No. 55.]

DEPARTMENT OF STATE,
Washington, April 6, 1878.

SIR: Referring to instruction No. 33, addressed to you by this department, under date of 2d March last, in relation to the alleged interference by

the inhabitants of Long Harbor, Newfoundland, with certain Americans engaged in the herring fishery there, I now inclose for your information, copies of further evidence in the matter, taken at St. John's, which has been received from the consul of the United States at that place.

I am, &c.,

F. W. SEWARD,
Acting Secretary.

For inclosure No. 1, deposition of Alfred Noel, see No. 1, Appendix A. to Lord Salisbury's note of April 3, 1880. (Document No. 26.)

For inclosure No. 2, deposition of John Rumsey or Ramsey, see No. 2, Appendix A, as above.

DOCUMENT NO. 3.

Mr. Evarts to Mr. Welsh.

No. 67.]

DEPARTMENT OF STATE,
Washington, April 26, 1878.

SIR: Referring to the instruction formerly addressed to you in relation to the interference, by certain fishermen of Newfoundland, with Americans engaged in the herring fishery at Fortune Bay, during the past winter, I now inclose for your further information, a copy of a dispatch of the 2d instant, No. 66, on the subject, from the commercial agent of the United States at St. Pierre, Miquelon.

I am, &c.,

WM. M. EVARTS.

[Inclosure with No. 67.]

Mr. McLaughlin to Mr. Seward.

No. 66.]

COMMERCIAL AGENCY, U. S. A.,
St. Pierre, Miquelon, April 2, 1878.

SIR: I have the honor to acknowledge receipt of your dispatch (No. 49) under date 21st February, from which I learn that a report has been made to the Department of State to the effect that a number of American vessels had been obliged to leave Fortune Bay on account of the antagonism of the fishermen in that bay, who "cut their cables and set their vessels adrift;" and further, that "some fourteen or more vessels (American) had been compelled by the natives to retire from the bay" without their cargoes, and that "Captain Jacobs, of schooner Moses Adams, had been compelled to defend himself and vessel from the assaults which were made upon him."

I beg, very respectfully, to observe that Long Harbor in Fortune Bay, the locality in which the difficulties occurred, is distant from St. Pierre about 90 miles, and that during the winter months there is almost a complete cessation of communication between that harbor and St. Pierre, and that no intimation of the matters alluded to in your dispatch came to my knowledge until through the Newfoundland and Nova Scotian journals, long after the difficulties occurred, which will account for my not having made it my duty to report to the Department on the subject.

Since the reception of your dispatch, which came to hand on 21st March, I have been enabled to obtain information from several parties, and among others, from an eye-witness to the matter in which Captain Jacobs was an actor, and the following (or as nearly as I can obtain it) is, I believe, reliable information:

On Sunday, January 13, three crews of American schooners, assisted by some Newfoundlanders, put out their seines to haul herring; they all succeeded in getting large quantities in their seines, when the fishermen of the bay (Newfoundlanders) gathered together and went to each of the captains and demanded that they should let the herring go out of their seines, under the pretext that as they (the natives) did not seine on the Sabbath, and as it was contrary to law, they would not allow it to be

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done by foreigners. The first captain they addressed (Capt. James McDonald, of schooner F. A. Smith) acceded to their demands and took up his seine; the second, Captain Jacobs, of schooner Moses Adams, had in the mean time run his herring into another seine belonging to a seine-master (Mr. Farroll, of Fortune Bay, who was working with him, and which was moored inside of his own); he took up his own seine into his boat, but refused to let the herring out of the other one. On some threatening language being used by the fishermen, he drew a revolver and declared he would shoot the first man who would seek to injure him or his seine; he finally rowed aboard his schooner, which was moored at a short distance. The natives then went to Captain Dago, of the schooner New England, and demanded that he should trip his seine and let out the herring; this he firmly refused to do. The fishermen then let the herring out and hauled the seine ashore and run it up the beach, tearing and breaking it in pieces.

From what I can learn, the statement that the schooners were obliged to leave the bay on account of the antagonism of the natives, is inexact, as they still continued to try during the week-days with the same seines (except Captain Dago's, which was destroyed) for a fortnight or more after the before-related occurrences without any hindrance whatever on the part of the natives, and it is asserted that it was owing to the exceedingly mild season and consequent impossibility to freeze herring, for which purpose the schooners alluded to were fitted out, that they left without their cargoes, and that considerable herring had been taken from time to time, but after having tried to freeze them, they were repeatedly obliged to sell them to the vessels loading salt-herring. This reason appears to be very likely the correct one, as I can hear no account whatever of any vessels having had their cables out, or of any other serious difficulty having occurred other than the one alluded to 13th January.

In the winter of 1876-77 a similar case occurred, one of the American seines being put out on Sunday by the crew, in charge of a Newfoundlander as seine-master, Jeremiah Petites. The people of the bay demanded that the seine should not be hauled, and it was accordingly tripped and taken up by the owners, no further difficulty occurring.

I make these observations in order to show as fully as possible the probably real state of the matter, and under the impression from all I can hear that the reports made to the department, and as related in your dispatch, are more or less incorrect. I think there exists a very decided feeling of hostility on the part of the Newfoundlanders to the use of the large seines by American fishermen in their waters, but have no reason to believe that any action has ever been taken to prevent their hauling or to injure them in any way, except when hauling on Sunday; at the same time it is quite probable that they have seized on the occasion thus offered to show their dislike to seines being used by Americans in competition with their own.

I have the honor to be, sir, very respectfully, etc.,

W. F. McLAUGHLIN,
Vice Commercial Agent, United States of America.

DOCUMENT No. 4.

Mr. Hoppin to Mr. Evarts.

No. 5.]

LEGATION OF THE UNITED STATES,
London, May 4, 1878.

SIR: Referring to instructions Nos. 33 and 55, from the Department of State, dated on the 2d of March and 6th of April respectively, in relation to the alleged interference by the inhabitants of Long Harbor, Newfoundland, with certain Americans engaged in the herring fishery there, I have the honor to inclose a copy of the correspondence on that subject which has passed between this legation and the British Foreign Office.

In the absence of directions to that effect it has been thought necessary to send to Lord Salisbury copies of the further evidence in relation to the matter inclosed in Mr. Seward's No. 55 of the 6th of April last.

I have, etc.,

WILLIAM J. HOPPIN.

[Inclosure 1 with No. 5.]

*Mr. Welsh to Earl of Derby.*LEGATION OF THE UNITED STATES,
London, March 19, 1878.

MY LORD: I have the honor to acquaint your lordship that complaints have reached the Department of State at Washington of serious interference with American fishermen engaged during the present season in the herring fishery on the coast of Newfoundland, especially in the neighborhood of Long Harbor. The complaints come from various sources: first, from the United States consuls in that province; the consuls confining themselves, however, to general statements based on representations made to them by fishermen immediately affected at the time of the occurrences which form the grounds of the complaints. Still more recently, however, these complaints have been preferred in a more specific manner, supported by affidavits of the masters of several fishing vessels owned and fitted out at Gloucester, Mass.

From these statements it appears that, about the 6th of January last, no less than eight schooners from the above-named port, while engaged in the herring fishery at and in the neighborhood of Long Harbor, were attacked by the inhabitants to the number in one instance of 60 men, and in another 200 or more, and their seines, which were set, and in most cases full of fish, cut and destroyed, and the fish in one case to the amount of 5,000 barrels, and in others only less in quantity and value, scattered and run out to sea, resulting, besides the great loss of property, in the vessels being obliged to return to their home port in ballast, and also to abandon their fishing enterprise for the season.

When it is remembered at what considerable expense the preparations are made for a season's fishing in these northern latitudes, and that very many of the men, both masters and mariners, embark their all in the enterprise, the serious character of these losses may be partially understood.

Instructions have been sent to the consuls to transmit fuller information on the subject, and I am advised that this will be furnished to me so soon as it shall have been received by the Department of State.

In the mean time, I am instructed to bring the matter to the attention of Her Majesty's Government, and to request that it will cause an investigation to be made into the alleged facts of the case, and adopt such measures as may be found necessary not only to put an end to the evil, but also to prevent a recurrence of acts which, in addition to the injuries and losses by individuals, may have a tendency to complicate the good relations which so happily subsist between the Government of the United States and that of her Britannic Majesty.

I have, &c.

JOHN WELSH.

[Inclosure 2 in No. 5.]

Lord Derby to Mr. Welsh.

FOREIGN OFFICE, March 25, 1878.

SIR: I have the honor to acknowledge the receipt of your letter of the 19th instant, stating that you have been instructed by your government to make a representation to Her Majesty's Government relative to the differences which have arisen between British and United States fishermen on the coast of Newfoundland, and I have to inform you in reply, that the matter shall receive due consideration.

I have, &c.,

DERBY.

[Inclosure 3 with No. 5.]

Lord Salisbury to Mr. Hoppin.

FOREIGN OFFICE, May 3, 1878.

SIR: I referred to Her Majesty's secretary of state for the colonies Mr. Welsh's letter of the 19th of March, upon the subject of the disputes which had taken place between British and United States fishermen on the coast of Newfoundland, and I have the honor to acquaint you that I am informed that inquiries are being instituted into the matter both by the authorities of Newfoundland and by the senior naval officer on the station, on learning the result of which I shall have the honor of addressing a further communication to you.

I have, &c.,

SALISBURY.

DOCUMENT No. 5.

Mr. F. W. Seward to Mr. Welsh.

No. 125.]

DEPARTMENT OF STATE,
Washington, August 13, 1878.

SIR: Referring to Mr. Hoppin's dispatch No. 5, of the 4th of May last, in regard to the interference by certain inhabitants of the coast of Newfoundland with American fishermen, in which it was stated that an investigation was being made into the matter by the colonial authorities, and that the result thereof would be communicated to the legation, I desire to be informed, in the absence of further intelligence from you upon the subject, whether you have received any additional particulars from the British Government. If not, you are instructed to request Her Majesty's Government to advise you of the progress of the inquiry. You will transmit whatever information may be obtained to the Department.

I am, &c.,

F. W. SEWARD,
Acting Secretary.

DOCUMENT No. 6.

Mr. Welsh to Mr. Evarts.

No. 132.]

LEGATION OF THE UNITED STATES,
London, August 24, 1878. (Received September 4.)

SIR: Referring to your Nos. 33, 55, and 67, and to Mr. Hoppin's No. 5, relating to certain alleged outrages upon American fishermen committed on the coast of Newfoundland, I have the honor to inform you that I have received a note from Lord Salisbury, inclosing the report of Captain Sullivan, of her Majesty's ship *Sirius*, upon these occurrences. I transmit herewith copies both of Lord Salisbury's note and of its inclosure.

I have, &c.,

JOHN WELSH.

[Inclosure in No. 132.]

Lord Salisbury to Mr. Welsh.

FOREIGN OFFICE, August 23, 1878.

SIR: Her Majesty's Government have had under their consideration your letter of the 19th of March, making representations relative to certain disturbances which occurred in January last, between British and United States fishermen at Fortune Bay, on the coast of Newfoundland, and requesting, in accordance with the instructions of your government, that an investigation might be made into the alleged facts of the case; and I have now the honor to transmit to you, for your information and for communication to your government, the accompanying copy of a report drawn up by Captain Sullivan, R. N., of Her Majesty's ship *Sirius*, the officer intrusted with the duty of instituting an inquiry into the matter on the spot.

You will perceive that the report in question appears to demonstrate conclusively that the United States fishermen on this occasion had committed three distinct breaches of the law, and that no violence was used by the Newfoundland fishermen except in the case of one vessel whose master refused to comply with the request which was made to him that he should desist from fishing on Sunday, in violation of the law of the colony, and of the local custom, and who threatened the Newfoundland fishermen with a revolver, as detailed in paragraphs five and six of Captain Sullivan's report.

I have the honor to be, &c.,

SALISBURY.

S. Ex. 113—11

SALISBURY.

[Appendix to inclosure in No. 132.]

Report on the differences that arose between British and United States fishermen in January, 1878, by Capt. George Lydiaard Sullivan, of her Majesty's ship Sirius.

Having carefully weighed the evidence given on oath before me by Newfoundland fishermen present at the time, together with that inclosed in the correspondence forwarded for my perusal, I am of opinion—

1. That the Americans were using seines for catching herring on the 6th of January, 1878, in direct violation of Title XXVII, chapter 102, section 1, of the consolidated statutes of Newfoundland, viz: "No person shall haul or take herring by or in a seine or other such contrivance on or near any part of the coast of this colony or of its dependencies, or in any of the bays, harbors, or other places therein, at any time between the 20th day of October and the 25th day of April."

2. That the American captains were setting and putting out seines and hauling and taking herring on Sunday, the 6th January, in direct violation of section 4, chap. 7, of the act passed 26th April, 1876, entitled "An act to amend the law relating to the coast fisheries," viz: "No person shall, between the hours of twelve o'clock on Saturday night and twelve o'clock on Sunday night, haul or take any herring, caplin, or squid with net, seines, bunts, or any such contrivance for the purpose of such hauling or taking."

3. That they were barring fish in direct violation of the continuance of the same act, Title XXVII, chap. 102, section 1, of the consolidated statutes of Newfoundland, "or at any time use a seine or other contrivance for the catching or taking of herrings, except by way of shooting and forthwith hauling the same."

4. That, contrary to the terms of the Treaty of Washington, in which it is expressly provided that they do not interfere with the rights of private property or with British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose (see article 18 of the above-named treaty), they were fishing illegally, interfering with the rights of British fishermen and their peaceable use of that part of the coast then occupied by them, and of which they were actually in possession—their seines and boats, their huts, gardens, and land granted by government being situated thereon.

5. It is distinctly shown in the evidence that the cause of the difference commenced with the Americans by their persisting in shooting their seines on the Sunday, as the Englishmen who worked for them would not do it on that day, not only on account of its being illegal, but of their religious regard for the Sabbath, which is always strictly kept by them, and, although it must be observed that the result of this illegal fishing would have been that the Americans would have secured the whole of the herring in the bay on that day, to the exclusion of the rights and fair chances of all the others during the week, yet there is no evidence to prove that this or anything else but the fact of its being Sunday and the law and custom among themselves regarding it prompted them to demand that the seines should be withdrawn.

6. It is shown by the evidence of all those witnesses present at the time when the Americans were remonstrated with, and told to take their seines up prior to any serious steps being taken, and it is also distinctly proved that no violence was resorted to until after the exasperating conduct of Captain Jacobs, the American master of a schooner concerned in this illegal fishing, who threatened them with a revolver if they prevented him or interfered with his seine.

7. It does not appear that the native fishermen were aware of the illegality of hauling a seine in the month of January. It is, therefore, to be presumed that the Americans were also ignorant of that law, although their ignorance can not exonerate them from the breach, nor does it exonerate John Hickey, an Englishman, who is charged with the same offense, and whom it is my intention to summon before me to answer to that charge.

8. The statement of the Americans that they were compelled to leave the harbor and leave off fishing is entirely without foundation, which is proved by the evidence of those examined before me, among whom was Mr. Snellgrove, collector of customs, who was there a week after the occurrence, and communicated with them, and by the evidence of others to the effect that they remained for about a fortnight or more "until the herring slackened," and, with respect to their loss of the haul of herring in the seine being emptied, the fish were not their lawful property, having been illegally caught.

In support of this view of the conduct of the Americans, I am not only borne out by the evidence of the Fortune Bay fishermen, who made their statements in a remarkably frank and straightforward manner, but by the self-conflicting evidence of those very Americans themselves, whose depositions given on oath show them to have been illegally fishing, and who were liable thereby to the forfeiture of the seines, nets, &c., by chap. 102, section 12, of the consolidated statutes.

GEORGE L. SULLIVAN,
Captain and Senior Officer.

DOCUMENT NO. 7.

Mr. Evarts to Mr. Welsh.

No. 150.]

DEPARTMENT OF STATE,

Washington, September 28, 1878.

SIR: I received in due course your dispatch of August 24 ultimo, inclosing Lord Salisbury's reply of the British Government to the representations that had been made to it as early as March last by you, under instructions from the Department.

I must understand Lord Salisbury's note, accompanying the copy of Captain Sullivan's report, which he communicates to this government, as adopting that naval officer's conclusions of fact respecting the violent injuries which our fishing-fleet suffered at the hands of the Newfoundland fishing population at Fortune Bay, in January of this year, as the answer which Her Majesty's Government makes to the representations laid before it on our part, verified by the sworn statements of numerous and respectable witnesses.

His lordship has not placed in our possession the proofs or depositions which form the basis of Captain Sullivan's conclusions of fact, and I am unable, therefore, to say whether, upon their consideration, the view which this government takes of these transactions, upon the sworn statements of our own respectable citizens, would be at all modified. In the absence of these means of correcting any mistakes or false impressions which our informants may have fallen into in their narrative of the facts, it is impossible to accept Captain Sullivan's judgment upon undisclosed evidence as possessing judicial weight.

You will, therefore, lay before Her Majesty's Government the desire which this government feels to be able to give due weight to this opposing evidence, before insisting upon the very grave view of these injuries which, at present, its unquestionable duty to the interests which have suffered them, and its confidence in the competency and sobriety of the proofs in our possession, compels this government to take. Should Her Majesty's Government place a copy of the evidence upon which Captain Sullivan bases his report in your hands, you will lose no time in transmitting it for consideration. I regret that any further delay should thus intervene to prevent an immediate consideration of the *facts* in the matter by the two governments in the presence of the same evidence of those facts for their scrutiny and judgment.

But a careful attention to Lord Salisbury's note discovers what must be regarded as an expression of his views, at least, of the authority of provincial legislation and administrative jurisdiction over our fishermen within the three-mile line, and of the restrictive limitations upon their rights on these fishing-grounds under the Treaty of Washington. Upon every aspect of the evidence, on one side and the other, as qualifying the violent acts from which our fishing-fleet has suffered at the hands of the Newfoundland coast fishermen, the views thus intimated seem to this government wholly inadmissible, and do not permit the least delay on our part in frankly stating the grounds of our exception to them.

The report of Captain Sullivan presents, as a justificatory support of the action of the Newfoundland shore-fishermen, in breaking up the operations of our fishing-fleet inside the three-mile line, at the times covered by these transactions, the violation of certain municipal legislation of the Newfoundland Government which, it is alleged, our fishermen were in the act of committing when the violent interruption of their industry occurred. I do not stop to point out the serious distinction between the

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L. SULLIVAN,
n and Senior Officer.

official and judicial execution of any such laws and the orderly enforcement of their penalties after solemn trial of the right, and the rage and predominant force of a volunteer multitude driving off our peaceful occupants of these fishing grounds pursuing their industry under a claim of right secured to them by treaty. I reserve this matter for a complete examination when the conflicting proofs are in my possession.

I shall assume, for my present purpose, that the *manner* of exerting this supposed provincial authority was official, judicial, and unexceptionable.

I will state these justifications for the disturbance of our fishing-fleet in Captain Sullivan's own language, that I may not even inadvertently impute to Lord Salisbury's apparent adoption of them any greater significance than their very language fairly imports.

Captain Sullivan assigns the following violations of law by our fishermen as the grounds of rightful interference with them on the occasion in question:

1st. That the Americans were using seines for catching herring on the 6th of January, 1878, in direct violation of Title XXVII, chapter 102, section 1, of the consolidated statutes of Newfoundland, viz: "No person shall haul or take herring by or in a seine or other such contrivance on or near any part of the coast of this colony or of its dependencies, or in any of the bays, harbors, or other places therein, at any time between the 20th day of October and the 25th day of April."

2d. That the American captains were setting and putting out seines and hauling and taking herring on Sunday, the 6th January, in direct violation of section 4, chapter 7, of the act passed 26th April, 1876, entitled "An act to amend the law relating to the coast fisheries," viz: "No person shall, between the hours of twelve o'clock on Saturday night and twelve o'clock on Sunday night, haul or take any herring, caplin, or squid, with net, seines, bunts, or any such contrivance for the purpose of such hauling or taking."

3d. That they were barring fish in direct violation of the continuance of the same act, Title XXVII, chapter 102, section 1, of the consolidated statutes of Newfoundland, "or at any time use a seine or other contrivance for the catching or taking of herrings, except by way of shooting and forthwith hauling the same."

4th. That contrary to the terms of the Treaty of Washington, in which it is expressly provided that they do not interfere with the rights of private property of British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose (see Article XVIII, of the above-named treaty), they were fishing illegally, interfering with the rights of British fishermen and their peaceable use of that part of the coast then occupied by them, and of which they were actually in possession—their seines and boats, their huts, gardens, and land granted by government being situated thereon.

The facts which enter into the offenses imputed under the first, second, and third heads of Captain Sullivan's statement, and such offenses thus made out, would seem to be the only warrant for his conclusion under his fourth head, that the United States fishermen have exceeded their treaty right, and in their actual prosecution of their fishing were, when interrupted by the force complained of, interfering with the rights of private property or with British fishermen in the peaceable use of that part of the coast then being in their occupancy for the same purpose, contrary to the proviso of Article XVIII of the Treaty of Washington.

It is no part of my present purpose to point out that this alleged interference of the reserved rights of the local fishermen does not justify the methods of correction or redress used to drive off our fishermen and break up their prosecution of the fishing. This may be reserved also for discussion when both governments have a fuller knowledge of the actual circumstances of the transaction.

In transmitting to you a copy of Captain Sullivan's report, Lord Salisbury says: "You will perceive that the report in question appears to demonstrate conclusively that the United States fishermen on this occasion had committed three distinct breaches of the law."

In this observation of Lord Salisbury, this government cannot fail to see a necessary implication that Her Majesty's Government conceives that in the prosecution of the right of fishing accorded to the United States by Article XVIII of the treaty our fishermen are subject to the local regulations which govern the coast population of Newfoundland in their prosecution of their fishing industry, whatever those regulations may be, and whether enacted before or since the Treaty of Washington.

The three particulars in which our fishermen are supposed to be constrained by actual legislation of the province cover in principle every degree of regulation of our fishing industry within the three-mile line which can well be conceived. But they are, in themselves, so important and so serious a limitation of the rights secured by the treaty as practically to exclude our fishermen from any profitable pursuit of the right, which, I need not add, is equivalent to annulling or cancelling by the Provincial Government of the privilege accorded by the treaty with the British Government.

If our fishing-fleet is subject to the Sunday laws of Newfoundland, made for the coast population; if it is excluded from the fishing grounds for half the year, from October to April; if our "seines and other contrivances" for catching fish are subject to the regulations of the legislature of Newfoundland, it is not easy to see what firm or valuable measure for the privilege of Article XVIII, as conceded to the United States, this government can promise to its citizens under the guaranty of the treaty.

It would not, under any circumstances, be admissible for one government to subject the persons, the property, and the interests of its fishermen to the unregulated regulation of another government upon the suggestion that such authority will not be oppressively or capriciously exercised, nor would any government accept as an adequate guaranty of the proper exercise of such authority over its citizens by a foreign government, that, presumptively, regulations would be uniform in their operation upon the subjects of both governments in similar case. If there are to be regulations of a common enjoyment, they must be authenticated by a common or joint authority.

But most manifestly the subject of the regulation of the enjoyment of the shore fishery by the resident provincial population, and of the in-shore fishery by our fleet of fishing-cruisers, does not tolerate the control of so divergent and competing interests by the domestic legislation of the provinces. Protecting and nursing the domestic interest at the expense of the foreign interest, on the ordinary motives of human conduct, necessarily shape and animate the local legislation. The evidence before the Halifax Commission makes it obvious that to exclude our fishermen from catching bait, and thus compel them to go without bait, or buy bait at the will and price of the provincial fishermen, is the interest of the local fishermen, and will be the guide and motive of such domestic legislation as is now brought to the notice of this Government. You will therefore say to Lord Salisbury that this Government cannot but express its entire dissent from the view of the subject that his lordship's note seems to indicate. This Government conceives that the fishery rights of the United States, conceded by the Treaty of Washington, are to be exercised wholly free from the restraints and regulations of the statutes of Newfoundland, now set up as authority over our fishermen, and from any other regulations of fishing now in force or that may hereafter be enacted by that government.

It may be said that a just participation in this common fishery by the

two parties entitled thereto may, in the common interest of preserving the fishery and preventing conflicts between the fishermen, require regulation by some competent authority. This may be conceded. But should such occasion present itself to the common appreciation of the two Governments, it need not be said that such competent authority can only be found in a joint convention that shall receive the approval of Her Majesty's Government and our own. Until this arrangement shall be consummated, this Government must regard the pretension that the legislation of Newfoundland can regulate our fishermen's enjoyment of the treaty right as striking at the treaty itself.

It asserts an authority on one side, and a submission on the other, which has not been proposed to us by Her Majesty's Government, and has not been accepted by this Government. I can not doubt that Lord Salisbury will agree that the insertion of any such element in the Treaty of Washington would never have been accepted by this Government, if it could reasonably be thought possible that it could have been proposed by Her Majesty's Government. The insertion of any such proposition by construction now is equally at variance with the views of this Government.

The representations made to this Government by the interests of our citizens affected leave no room to doubt that this assertion of authority is as serious and extensive in practical relations as it is in principle. The rude application made to the twenty vessels in Fortune Bay of this asserted authority, in January last, drove them from the profitable prosecution of their projected cruises. By the same reason, the entire inshore fishery is held by us upon the same tenure of dependence upon the parliament of the Dominion or the legislatures of the several Provinces.

I cannot but regret that this vital question has presented itself so unexpectedly to this Government, and at a date so near the period at which this Government, upon a comparison of views with Her Majesty's Government, is to pass upon the conformity of the proceedings of the Halifax Commission with the requirements of the Treaty of Washington. The present question is wholly aside from the considerations bearing upon that subject, and which furnishes the topic of my recent dispatch.

In the opinion of this Government, it is essential that we should at once invite the attention of Lord Salisbury to the question of provincial control over the fishermen of the United States in their prosecution of the privilege secured to them by the treaty. So grave a question, in its bearing upon the obligations of this Government under the treaty, makes it necessary that the President should ask from Her Majesty's Government a frank avowal or disavowal of the paramount authority of Provincial legislation to regulate the enjoyment by our people of the inshore fishery, which seems to be intimated, if not asserted, in Lord Salisbury's note.

Before the receipt of a reply from Her Majesty's Government, it would be premature to consider what should be the course of this Government should this limitation upon the treaty privileges of the United States be insisted upon by the British Government as their construction of the treaty.

You will communicate this dispatch to Lord Salisbury by reading the same to him and leaving with him a copy.

I am, sir, etc.,

WM. M. EVARTS.

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DOCUMENT No. 8.

Mr. Evarts to Mr. Welsh.

No. 174.]

DEPARTMENT OF STATE,
Washington, November 8, 1878.)

SIR: Your cable dispatch of this date, giving a summary of the prominent points of the reply of Lord Salisbury to my communication of the 28th of September, has been duly received. It is deemed proper to reserve comments thereon until the full text shall be received by mail.

I am, &c.,

WM. M. EVARTS.

DOCUMENT No. 9.

Mr. Welsh to Mr. Evarts.

No. 159.

LEGATION OF THE UNITED STATES,
London, November 9, 1878. (Received November 20.)

SIR: I received from Lord Salisbury, late in the evening of the 7th instant, his reply to your dispatch, No. 150, of the 28th of September last, in relation to the disturbance of American fishermen by certain inhabitants of Newfoundland. I sent you by cable yesterday, in cipher, such a summary of this reply as our limited time enabled us to prepare, and I now inclose two copies of the letter in print, with which we have been furnished through the courtesy of the foreign office.

I have, &c.,

JOHN WELSH.

[Inclosure in No. 159.]

The Marquis of Salisbury to Mr. Welsh.

FOREIGN OFFICE, November 7, 1878.

SIR: Her Majesty's Government have had under their consideration the dispatch from Mr. Evarts, dated the 28th September, and communicated to me on the 12th ultimo, respecting the complaints made by the Government of the United States of the injuries sustained by American fishermen in Fortane Bay in January last.

This dispatch is in reply to my letter of the 23d August, in which I forwarded a copy of the report furnished by Captain Sullivan, of Her Majesty's Ship *Sirius*, on the occurrences in question. Mr. Evarts now remarks that the United States Government have not been put in possession of the depositions which form the basis of that report, and are unable, therefore, to say whether, upon their consideration, the view which the Government of the United States takes of these transactions upon the sworn statements of their own citizens would be at all modified.

Her Majesty's Government have not had the opportunity of considering the statements in question; but the depositions which accompanied Captain Sullivan's report, and which I now have the honor to forward, appeared to them, in the absence of other testimony, to be conclusive as regards the facts of the case.

Apart, however, from the facts, in respect to which there appears to be a material divergence between the evidence collected by the United States Government and that collected by the colonial authorities, Mr. Evarts takes exception to my letter of the 23d, on the ground of my statement that the United States fishermen concerned have been guilty of breaches of the law. From this he infers an opinion on my part that it is competent for a British authority to pass laws, in supersession of the treaty, binding American fishermen within the three-mile limit. In pointing out that the American fishermen had broken the law within the territorial limits of Her Majesty's dominions, I had no intention of inferentially laying down any principles of interna-

tional law; and no advantage would, I think, be gained by doing so to a greater extent than the facts in question absolutely require.

I hardly believe, however, that Mr. Evarts would in discussion adhere to the broad doctrine which some portion of his language would appear to convey, that no British authority has a right to pass any kind of laws binding Americans who are fishing in British waters; for if that contention be just, the same disability applies *à fortiori* to any other power, and the waters must be delivered over to anarchy. On the other hand, Her Majesty's Government will readily admit—what is, indeed, self-evident—that British sovereignty, as regards those waters, is limited in its scope by the engagements of the treaty of Washington, which cannot be modified or affected by any municipal legislation. I cannot anticipate that with regard to these principles any difference will be found to exist between the views of the two governments.

If, however, it be admitted that the Newfoundland legislature have the right of binding Americans who fish within their waters by any laws which do not contravene existing treaties, it must further be conceded that the duty of determining the existence of any such contravention must be undertaken by the governments, and cannot be remitted to the discretion of each individual fisherman. For such a discretion, if exercised on one side, can hardly be refused on the other. If any American fisherman may violently break a law which he believes to be contrary to a treaty, a Newfoundland fisherman may violently maintain it if he believes it to be in accordance with treaty. As the points in issue are frequently subtle, and require considerable legal knowledge, nothing but confusion and disorder could result from such a mode of deciding the interpretation of the treaty.

Her Majesty's Government prefer the view that the law enacted by the legislature of the country, whatever it may be, ought to be obeyed by natives and foreigners alike who are sojourning within the territorial limits of its jurisdiction; but that if a law has been inadvertently passed which is in any degree or respect at variance with rights conferred on a foreign power by treaty, the correction of a mistake so committed, at the earliest period after its existence shall have been ascertained and recognized, is a matter of international obligation.

It is not explicitly stated in Mr. Evarts's dispatch that he considers any recent acts of the colonial legislature to be inconsistent with the rights acquired by the United States under the treaty of Washington. But if that is the case, Her Majesty's Government will in a friendly spirit consider any representations he may think it right to make upon the subject, with the hope of coming to a satisfactory understanding.

I have, &c.,

SALISBURY.

[Appendix 1 to inclosure No. 159.]

Captain Sullivan to Vice-Admiral Sir E. Inglefield.

"SIRIUS, ST. JOHN'S, NEWFOUNDLAND, June 19, 1878.

SIR: I have the honor to inform you that, in obedience to your orders, I left Halifax on Saturday, the 8th instant, and proceeded to Fortune Bay, for the purpose of inquiring into the circumstances connected with the quarrel between the English and American fishermen in Long Harbor in January last, arriving off Brunet Island on the evening of Monday, the 10th. I anchored there for the night, the weather being thick, with fogs gathering; and on the evening of the 11th weighed and proceeded to Long Harbor, at the entrance of which the same afternoon I learnt that the *Pert* was at the head of the harbor (about 9 miles off). I therefore proceeded through the narrows and anchored in 6 fathoms about 7 miles from the entrance, and observed the *Pert* anchored about 3 miles farther in, when I recalled her, and on the following day anchored in company with her 4 miles farther down off Tickle Beach, where we found the disturbance of January last had taken place.

2. On this beach are two huts, occupied by fishermen who witnessed the affair, and having taken their evidence, which, with other evidence subsequently taken, will be forwarded with my report hereafter, we proceeded to Metter's Cove, where a fisherman named Tharnell and another were examined on the same subject.

3. From information given by them I proceeded to St. Jacques the same afternoon, where, from Mr. Snellgrove, subcollector of customs, who was present at Tickle Beach shortly after the disturbance, and others who had witnessed the whole transaction, I obtained further important evidence, which, with my report, will be forwarded at the earliest opportunity when complete.

4. There have been at these places several complaints made to me on various subjects by some of the witnesses, disputes relative to land property, and reports of barring herring, one being that a seine had been laid for this illegal purpose, and had been so for some days; in consequence of which I directed Captain Aitchison to proceed to the spot said to be barred, and ascertain the truth of the information.

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SALISBURY.

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5. The Pert rejoined at St. Jacques, and reported having found the seine as described, and taken possession of it. In other cases of complaint, I was only able to take the evidence of those witnesses present at the time, but in the absence of others away fishing, I had to postpone the cases until my return from St. John's.

6. On Monday, the 17th, I directed the Pert to proceed to St. John's to coal, prior to her leaving for the east coast, and the same afternoon I left St. Jacques in this ship for St. John's, where I arrived yesterday at 7 p. m., the mail from England for Halifax arriving a few hours afterward, and leaving early this morning.

7. I am unable to forward more than this letter, as the report on the subject of the American outrage is not complete; but the evidence is most complete, the witnesses corroborating each other, and goes completely to prove the Americans were entirely in the wrong, and brought the quarrel on themselves, first by illegally fishing, and then by threatening them with a revolver.

8. I found on arrival the Contest at anchor, and the Pert arrived this morning, to await further orders.

I have, etc.,

GEO. L. SULLIVAN.

[Appendix 2 to Inclosure in No. 159.]

Captain Sullivan to Rear-Admiral Sir E. Ingfield.

SIRIUS, ST. JOHN'S, June 21, 1878.

SIR: In obedience to your orders dated the 8th instant, in which I am directed to inquire into the differences which arose between British and United States fishermen in Fortune Bay in January last, I have the honor herewith to inclose the evidence obtained from several witnesses, together with my report on the subject; and, in further remarking thereon, desire to call your attention to those points in the evidence which have led me to the conclusions contained in that report.

It will be seen therein that there are four statutes which bear on the subject, and which have been infringed by the American fishermen, viz: Act, cap. 6, 1876, in amendment of consolidated statutes (1872): cap. 102, the proviso of the same as regards barring.

By the same act, 1876, sec. 4, and art. 18 of the treaty of Washington—

1. With respect to the first of these, the witness Silas Fudge says: "I witnessed the disturbance at Long Harbor on Sunday, the 6th January last; I am certain it was the 6th; I saw the seines in the water, two of them Americans, again. He (*i. e.*, Jacobs, an American) had his in the boat; he had shot once and discharged his seine into Farrel's, who was working for him."

John Cluett stated that he was in Long Harbor on Sunday in January last. "They (the Americans) commenced hauling herring on Sunday about midday; the first American seine shot was that of Jacobs; there were two more American seines shot. He (Jacobs) had just hauled herring and shot them into Farrel's seine, who was working for him; we remonstrated about breaking the law and fishing Sundays."

All the evidence of the other witnesses is corroborative of the above; and the fact is even acknowledged by the Americans in their own evidence, as appears by the statements inclosed in the correspondence on this subject. It is therefore evident that they were illegally fishing, using seines, and hauling herring in January last contrary to the above-quoted status, which prohibits the same between the 20th October and 25th April in any year.

2. That the American captains were setting and putting out seines and hauling and taking herring on Sunday, the 6th January, in direct violation of sec. 4, cap. 6. This is proved by the evidence of all the witnesses.

John Saunders says: "In January last—one Sunday, I don't know the date—the Americans laid out their seines, assisted by the English employed by them; the Newfoundlanders told them to take them up, as it was not legal their fishing on Sundays; there was no other reason for destroying nets but for fishing on Sundays. They went to McCauley, who had laid his seine out for barring herring; the Newfoundlanders said it should not be done on a Sabbath day."

3. That the Americans were barring herring, that is, confining them in the seines for a considerable time, instead of forthwith hauling them. By the evidence of Silas Fudge "He (Captain Jacobs) had shot once and discharged his seine into Tom Farrel's, who was working for him."

John Saunders says: "Jacobs upset his seine into Farrel's seine, who was employed by him. Farrel was barring for the Americans, and was not allowed! Jacobs to haul his seine."

Mark Bolt says: "The Americans do not bar fish; this was the first time I ever knew them to do so."

Richard Hendricken says: "Samuel Jacobs would persist in hauling, and hauled once and barred them in Farrel's net. Farrel was working for them, and had been barring herring for several days, perhaps about a fortnight, by the Americans' orders. I believe it is illegal barring herring, but we have no power to stop it; it is no good telling a magistrate; they take no notice of him."

4. That they were interfering with the rights of British fishermen in their peaceable use of that part of the coast occupied by them, &c. By all the evidence given, it occurred on Tickle Beach, Long Harbor, on which, as was seen by us, was a Newfoundland fishing settlement, the land being granted by government, as stated by Mark Bolt, who says: "I have been in the neighborhood fourteen or fifteen years. The ground I occupy, 150 feet, was granted me for life by government, and for which I now pay a fee; there are two families on the beach; there were three in the winter; our living is dependent on our fishing off this settlement."

The above are the main points in the evidence on which my report is founded.

In conclusion, I beg to inform you that I have forwarded a copy of the report to his Excellency the governor of Newfoundland and the duplicate direct to their lordships, in order to insure their receiving it at the same time as the colonial office will.

I have, &c.,

GEO. L. SULLIVAN.

[Appendix 3 to inclosure 1 in No. 159.]

Report on differences that arose between British and United States fishermen in January, 1878, by Captain Sullivan, of Her Majesty's ship Sirius.

Having carefully weighed the evidence given on oath before me by Newfoundland fishermen present at the time, together with that inclosed in the correspondence forwarded for my perusal, I am of opinion—

1. That the Americans were using seines for catching herring on the 6th January, 1878, in direct violation of Title XXVII, chap. 102, sec. 1, of the consolidated statutes of Newfoundland, viz: "No person shall haul or take herring by or in a seine, or other such contrivance, on or near any part of the coast of this colony or of its dependencies, or in any of the bays, harbors, or other places therein, at any time between the 20th day of October and the 25th day of April."

2. That the American captains were setting and putting out seines and hauling and taking herring on Sunday, the 6th January, in direct violation of sec. 4, chap. 7 of the act passed 26th April, 1876, entitled "An act to amend the law relating to the coast fisheries," viz: "No person shall, between the hours of twelve o'clock on Saturday night and twelve o'clock on Sunday night haul or take any herring, capelin, or squid, with net, seines, bunts, or any such contrivance, or set or put out any such net, seine, bunt, or contrivance, for the purpose of such hauling or taking."

3. That they were barring fish in direct violation of the continuance of the same act, Title XXVII, chap. 102, sec. 1, of the consolidated statutes of Newfoundland, "or at any time use a seine or other contrivance for the catching or taking of herrings, except by way of shooting and forthwith hauling the same."

4. That contrary to the terms of the treaty of Washington, in which it is expressly provided that they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose (see Article XVIII of the above-named treaty), they were fishing illegally, interfering with the rights of British fishermen and their peaceable use of that part of the coast then occupied by them, and of which they were actually in possession, their seines and boats, their huts, gardens, and land granted them by government being situated thereon (see Mark Bolt's evidence).

5. It is distinctly shown in the evidence that the cause of the difference commenced with the Americans by their persisting in shooting their seines on the Sunday, as the Englishmen who worked for them would not do it on that day, not only on account of its being illegal, but of their religious regard for the Sabbath, which is always strictly kept by them; and although it must be observed that the result of this illegal fishing would have been that the Americans would have secured the whole of the herring in the bay on that day to the exclusion of the rights and fair chances of all the others during the week, yet there is no evidence to prove that this, or anything else but the fact of its being Sunday, and the law and custom among themselves regarding it, prompted them to demand that the seines should be withdrawn.

6. It is shown by the evidence of all those witnesses present at the time that the Americans were remonstrated with, and told to take their seines up prior to any serious steps being taken, and it is also distinctly proved that no violence was resorted to until after the exasperating conduct of Captain Jacobs, the American master of a schooner concerned in this illegal fishing, who threatened them with a revolver if they prevented him or interfered with his seine.

7. It does not appear that the native fishermen were aware of the illegality of hauling a seine in the month of January; it is therefore to be presumed that the Americans were also ignorant of that law, although their ignorance cannot exonerate them from the breach, nor does it exonerate John Hickey, an Englishman, who is charged with the same offense, and who it is my intention to summon before me to answer to that charge.

8. The statement of the Americans, that they were compelled to leave the harbor and leave off fishing, is entirely without foundation, which is proved by the evidence of those examined before me, among whom was Mr. Snellgrove, collector of customs, who was there a week after the occurrence, and communicated with them, and by the evidence of others to the effect that they remained for about a fortnight or more, "until the herrings slackened;" and with respect to their loss of the haul of herring by the seine being emptied, the fish were not their lawful property, having been illegally caught.

In support of this view of the conduct of the Americans, I am not only borne out by the evidence of the Fortune Bay fishermen, who made their statements in a remarkably frank and straightforward manner, but by the self-convicting evidence of those very Americans themselves, whose depositions, given on oath, show them to have been illegally fishing, and who were liable thereby to the forfeiture of their seines, nets, &c., by chap. 102, sec. 12, of the consolidated statutes.

GEO. L. SULLIVAN,
Captain and Senior Officer.

[Appendix 4 to inclosure 1 in No. 159.]

Deposition of John Saunders.

For this deposition, see No. 3, Appendix A, to Lord Salisbury's note of April 3, 1880. (Document No. 26.)

[Appendix 5 to inclosure 1 in No. 159.]

Deposition of Mark Bolt.

For this deposition, see No. 4, Appendix A, to Lord Salisbury's note of April 3, 1880. (Document No. 26.)

[Appendix 6 to inclosure 1 in No. 159.]

Deposition of Richard Hendriken.

For this deposition, see No. 5, Appendix A, to Lord Salisbury's note of April 3, 1880. (Document No. 26.)

[Appendix 7 to inclosure 1 in No. 159.]

Deposition of Ambrose Pope.

For this deposition, see No. 6, Appendix A, to Lord Salisbury's note of April 3, 1880. (Document No. 26.)

[Appendix 8 to inclosure 1 in No. 159.]

Deposition of James Tharnell.

For this deposition, see No. 7, Appendix A, to Lord Salisbury's note of April 3, 1880. (Document No. 26.)

[Appendix 9 to inclosure 1 in No. 159.]

Deposition of George Snellgrove.

For this deposition, see No. 8, Appendix A, to Lord Salisbury's note of April 3, 1880. (Document No. 26.)

[Appendix 10 to inclosure 1 in No. 159.]

Deposition of Silas Fudge.

For this deposition, see No. 9, Appendix A, to Lord Salisbury's note of April 3, 1880. (Document No. 25.)

[Appendix 11 to inclosure 1 in No. 159.]

Deposition of John Cluett.

For this deposition, see No. 10, Appendix A, to Lord Salisbury's note of April 3, 1880. (Document No. 26.)

DOCUMENT NO. 10.

Mr. Evarts to Mr. Welsh.

No. 347.]

DEPARTMENT OF STATE,
Washington, August 1, 1879.

SIR: You will readily understand that the pressure of current business, especially during the regular and special sessions of Congress, has prevented so immediate attention to the claims of the Fortune Bay fishermen, as definitely laid before me in their proofs completed during the session, as would enable me to give, in reply, a full consideration to the dispatch of Lord Salisbury of the date of November 7, 1878, in reply to mine to you of 28th September, 1878.

But other and stronger reasons have also induced me to postpone until now any discussion of the questions arising out of the occurrences to which these dispatches referred.

It so happened that the transactions of which certain citizens of the United States complain were brought fully to the attention of the government about the same time at which it became my duty to lay before Her Britannic Majesty's Government the views of the United States Government as to the award then recently made by the Commission on the Fisheries, which had just closed its sittings at Halifax. While the character of the complaint and the interests of the citizens of the United States rendered it necessary that the subject should be submitted to the consideration of Her Britannic Majesty's Government at the earliest possible moment, in order to the prevention of any further and graver misunderstanding and the avoidance of any serious interruption to an important industry, I was exceedingly unwilling that the questions arising under the award and those provoked by the occurrences in Newfoundland should be confused with each other, and least of all would I have been willing that the simultaneous presentment of the views of this Government should be construed as indicating any desire on our part to connect the settlement of these complaints with the satisfaction or abrogation of the Halifax award.

I also deemed it not unadvisable in the interests of such a solution as I am sure is desired by the good sense and good temper of both governments that time should be allowed for the extinguishment of the local irritation both here and in Newfoundland which these transactions seem to have excited, and that another fishing season should more clearly indicate whether the rights to which the citizens of the United States were entitled under the treaty were denied or diminished by the preten-

sions and acts of the colonial authorities or whether their infraction was accidental and temporary. As soon as the violence to which citizens of the United States had been subjected in Newfoundland was brought to the attention of this department, I instructed you, on 2d March, 1878, to represent the matter to Her Britannic Majesty's Government, and upon such representation you were informed that a prompt investigation would be ordered for the information of that government.

On August 23, 1878, Lord Salisbury conveyed to you, to be transmitted to your Government, the result of that investigation, in the shape of a report from Captain Sullivan, of Her Majesty's ship *Sirius*. In furnishing you with this report, Lord Salisbury, on behalf of Her Britannic Majesty's Government, said:

You will perceive that the report in question appears to demonstrate conclusively that the United States fishermen on this occasion had committed three distinct breaches of the law, and that no violence was used by the Newfoundland fishermen, except in the case of one vessel, whose master refused to comply with the request which was made to him that he should desist from fishing on Sunday in violation of the law of the colony and of the local custom, and who threatened the Newfoundland fishermen with a revolver, as detailed in paragraphs 5 and 6 of Captain Sullivan's report.

The three breaches of the law thus reported by Captain Sullivan and assumed by Lord Salisbury as conclusively established, were: 1. The use of seines and the use of them also at a time prohibited by a colonial statute. 2. Fishing upon a day—Sunday—forbidden by the same local law; and 3. Barring fish in violation of the same local legislation. In addition Captain Sullivan reported that the United States fishermen were, contrary to the terms of the treaty of Washington—

Fishing illegally, interfering with the rights of British fishermen and their peaceable use of that part of the coast then occupied by them and of which they were actually in possession—their seines and boats, their huts and gardens and land granted by government being situated thereon.

Yours, containing this dispatch and the accompanying report, was received on 4th September, 1878, and on the 28th of the same month you were instructed that it was impossible for this government duly to appreciate the value of Captain Sullivan's report, until it was permitted to see the testimony upon which the conclusions of that report professed to rest. And you were further directed to say that, putting aside for after examination the variations of fact, it seemed to this government that the assumption of the report was, that the United States fishermen were fishing illegally, because their fishing was being conducted at a time and by methods forbidden by certain colonial statutes; that the language of Lord Salisbury, in communicating the report with his approval, indicated the intention of Her Britannic Majesty's Government to maintain the position, that the treaty privileges secured to United States fishermen by the treaty of 1871 were held subject to such limitations as might be imposed upon their exercise by colonial legislation; and "that so grave a question, in its bearing upon the obligations of this government under the treaty, makes it necessary that the President should ask from Her Majesty's Government a frank avowal or disavowal of the paramount authority of provincial legislation to regulate the enjoyment by our people of the inshore fishery, which seems to be intimated, if not asserted, in Lord Salisbury's note."

In reply to this communication, Lord Salisbury, 7th November, 1878, transmitted to you the depositions which accompanied Captain Sullivan's report, and said:

In pointing out that the American fishermen had broken the law within the territorial limits of Her Majesty's domains, I had no intention of inferentially laying down

any principles of international law, and no advantage would, I think, be gained by doing so to a greater extent than the facts in question absolutely require. * * * Her Majesty's Government will readily admit—what is, indeed, self-evident—that British sovereignty, as regards those waters, is limited in its scope by the engagements of the Treaty of Washington, which can not be modified or affected by any municipal legislation.

It is with the greatest pleasure that the United States Government receives this language as "the frank disavowal" which it asked "of the paramount authority of provincial legislation to regulate the enjoyment by our people of the inshore fishery."

Removing, as this explicit language does, the only serious difficulty which threatened to embarrass this discussion, I am now at liberty to resume the consideration of these differences in the same spirit and with the same hopes so fully and properly expressed in the concluding paragraph of Lord Salisbury's dispatch. He says :

It is not explicitly stated in Mr. Evarts' dispatch that he considers any recent acts of the colonial legislature to be inconsistent with the rights acquired by the United States under the Treaty of Washington. But if that is the case, Her Majesty's Government will, in a friendly spirit, consider any representations he may think it right to make upon the subject, with the hope of coming to a satisfactory understanding.

It is the purpose, therefore, of the present dispatch to convey to you, in order that they may be submitted to Her Britannic Majesty's Government, the conclusions which have been reached by the Government of the United States as to the rights secured to its citizens under the treaty of 1871 in the herring fishery upon the Newfoundland coast, and the extent to which those rights have been infringed by the transactions in Fortune Bay on January 6, 1878.

Before doing so, however, I deem it proper, in order to clear the argument of all unnecessary issues, to correct what I consider certain misapprehensions of the views of this Government contained in Lord Salisbury's dispatch of 7th of November, 1878. The secretary for foreign affairs of Her Britannic Majesty says :

If, however, it be admitted that the Newfoundland legislature have the right of binding Americans who fish within their waters by any laws which do not contravene existing treaties, it must be further conceded that the duty of determining the existence of such contravention must be undertaken by the governments, and can not be remitted to the discretion of each individual fisherman. For such discretion, if exercised on one side, can hardly be refused on the other. If any American fisherman may violently break a law which he believes to be contrary to treaty, a Newfoundland fisherman may violently maintain it if he believes it to be in accordance with treaty.

His lordship can scarcely have intended this last proposition to be taken in its literal significance. An infraction of law may be accompanied by violence which affects the person or property of an individual, and that individual may be warranted in resisting such illegal violence, so far as it directly affects him, without reference to the relation of the act of violence to the law which it infringes, but simply as a forcible invasion of his rights of person or property. But that the infraction of a general municipal law, with or without violence, can be corrected and punished by a mob, without official character or direction, and who assume both to interpret and administer the law in controversy, is a proposition which does not require the reply of elaborate argument between two governments whose daily life depends upon the steady application of the sound and safe principles of English jurisprudence. However this may be, the Government of the United States can not for a moment admit that the conduct of the United States fishermen in Fortune Bay was in any—the remotest degree—a violent breach of law.

Granting any and all the force which may be claimed for the colonial legislation, the action of the United States fishermen was the peaceable

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prosecution of an innocent industry, to which they thought they were entitled. Its pursuit invaded no man's rights, committed violence upon no man's person, and if trespassing beyond its lawful limits could have been promptly and quietly stopped by the interference and representations of the lawfully constituted authorities. They were acting under the provisions of the very statute which they are alleged to have violated, for it seems to have escaped the attention of Lord Salisbury that section 25 of the title of the consolidated acts referred to contains the provision that "Nothing in this chapter shall affect the rights and privileges granted by treaty to the subjects of any state or power in amity with Her Majesty." They were engaged, as I shall hereafter demonstrate, in a lawful industry, guaranteed by the treaty of 1871, in a method which was recognized as legitimate by the award of the Halifax Commission, the privilege to exercise which their government had agreed to pay for. They were forcibly stopped, not by legal authority, but by mob violence. They made no resistance, withdrew from the fishing grounds, and represented the outrage to their Government, thus acting in entire conformity with the principle as justly stated by Lord Salisbury himself, that—

If it be admitted, however, that the Newfoundland legislature have the right of binding Americans who fish within their waters by any laws which do not contravene existing treaties, it must be further conceded that the duty of determining the existence of such contravention must be undertaken by the governments, and can not be remitted to the judgment of each individual fisherman.

There is another passage of Lord Salisbury's dispatch to which I should call your attention. Lord Salisbury says:

I hardly believe, however, that Mr. Evarts would in discussion adhere to the broad doctrine, which some portion of his language would appear to convey, that no British authority has a right to pass any kind of laws binding Americans who are fishing in British waters; for if that contention be just the same disability applies *a fortiori* to any other powers, and the waters must be delivered over to anarchy.

I certainly can not recall any language of mine in this correspondence which is capable of so extraordinary a construction. I have nowhere taken any position larger or broader than that which Lord Salisbury says:

Her Majesty's Government will readily admit, what is, indeed, self-evident, that British sovereignty, as regards these waters, is limited in its scope by the engagements of the Treaty of Washington, which can not be affected or modified by any municipal legislation.

I have never denied the full authority and jurisdiction, either of the imperial or colonial governments, over their territorial waters, except so far as by treaty that authority and jurisdiction have been deliberately limited by these governments themselves. Under no claim or authority suggested or advocated by me could any other government demand exemption from the provisions of British or colonial law, unless that exemption was secured by treaty; and if these waters must be delivered over to anarchy, it will not be in consequence of any pretensions of the United States Government, but because the British Government has, by its own treaties, to use Lord Salisbury's phrase, limited the scope of British sovereignty. I am not aware of any such treaty engagements with other powers, but if there are, it would be neither my privilege nor duty to consider or criticise their consequences where the interests of the United States are not concerned.

After a careful comparison of all the depositions furnished to both governments, the United States Government is of opinion that the following facts will not be disputed:

1. That twenty-two vessels belonging to citizens of the United States,

viz, Fred. P. Frye, Mary and M., Lizzie and Namari, Edward E. Webster, W. E. McDonald, Crest of the Wave, F. A. Smith, Hereward, Moses Adams, Charles E. Warren, Moro Castle, Wildfire, Maud and Effie, Isaac Rich, Bunker Hill, Bonanza, H. M. Rogers, Moses Knowlton, John W. Bray, Maud B. Wetherell, New England, and Ontario, went from Gloucester, a town in Massachusetts, United States, to Fortune Bay, in Newfoundland, in the winter of 1877-1878, for the purpose of procuring herring.

2. That these vessels waited at Fortune Bay for several weeks (from about December 15, 1877, to January 6, 1878) for the expected arrival of schools of herring in that harbor.

3. That on Sunday, January 6, 1878, the herring entered the bay in great numbers, and that four of the vessels sent their boats with seines to commence fishing operations, and the others were proceeding to follow.

4. That the parties thus seining were compelled, by a large and violent mob of the inhabitants of Newfoundland, to take up their seines, discharge the fish already inclosed, and abandon their fishery, and that in one case, at least, the seine was absolutely destroyed.

5. That these seines were being used in the interest of all the United States vessels waiting for cargoes in the harbor, and that the catch undisturbed would have been sufficient to load all of them with profitable cargoes. The great quantity of fish in the harbor, and the fact that the United States vessels if permitted to fish would all have obtained full cargoes, is admitted in the British depositions.

If the Americans had been allowed to secure all the herrings in the bay for themselves, which they could have done that day, they would have filled all their vessels, and the neighboring fishermen would have lost all chance on the following week day. (Deposition of James Sarwell.)

The Americans by hauling herring that day, when the Englishmen could not, were robbing them of their lawful and just chance of securing their share in them; and, further, had they secured all they had barred, they would, I believe, have filled every vessel of theirs in the bay. (Deposition of John Chutt.)

See also affidavits of the United States captains.

6. That in consequence of this violence all the vessels abandoned the fishing grounds, some without cargoes, some with very small cargoes, purchased from the natives, and their voyages were a loss to their owners.

7. That the seining was conducted at a distance from any land or fishing privilege or the occupation of any British subject. (See affidavits of Willard G. Knode, Charles Doyle, and Michael B. Murray.)

8. That none of the United States vessels made any further attempts to fish, but three or four which were delayed in the neighborhood purchased small supplies of herring. (See British depositions of John Saunders and Silas Fudge, wherein is stated that the United States vessels only remained a few days, and that after January 6 no fish came into the harbor.)

All the United States affidavits show that the United States vessels were afraid to use their seines after this, and that they left almost immediately, most of them coming home in ballast.

The provisions of the treaty of Washington (1871), by which the right to prosecute this fishery was secured to the citizens of the United States, are very simple and very explicit.

The language of the treaty is as follows:

XVIII. It is agreed by the high contracting parties that in addition to the liberties secured to the United States fishermen by the convention between the United States and Great Britain, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American colonies, therein

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defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty for the term of years mentioned in Article XXXIII of this treaty to take fish of every kind, except shell-fish, on the sea coast and shores and in the bays, harbors, and creeks of the provinces of Quebec, &c.

XXXII. It is further agreed that the provisions and stipulations of Articles XVIII to XXV of this treaty, inclusive, shall extend to the colony of Newfoundland, so far as they are applicable.

Title XXVII, chapter 102, of the consolidated acts of Newfoundland, provides:

SECTION 1. That no person shall take herring on the coast of Newfoundland by a seine or other such contrivance, at any time between the 20th day of October and the 15th day of April, in any year, or at any time use a seine except by way of shooting and forthwith hauling the same.

SEC. 2. That no person shall, at any time, between the 20th day of December and the 1st day of April, in any year, catch or take herring with seines of less than 2½ inches mesh, &c.

SEC. 4. No person shall, between the 20th day of April and the 20th day of October, in any year, haul, catch, or take herring or other bait for exportation within one mile measured by the shore across the water, of any settlement situated between Cape Chapeau Rouge and Point Enamaj, near Cape Ray.

The act of 1876 provides that—

No person shall, between the hours of twelve o'clock on Saturday night and twelve o'clock on Sunday night, haul or take any herring, caplin, or squid, with net, seine, bunts, or any such contrivance for the purpose of such hauling or taking.

It seemed scarcely necessary to do more than place the provisions of the treaty and the provisions of these laws in contrast, and apply the principle so precisely and justly announced by Lord Salisbury as self-evident, "that British sovereignty, as regards those waters, is limited in its scope by the engagements of the Treaty of Washington, which can not be modified or affected by any municipal legislation." For it will not be denied that the treaty privilege of "taking fish of every kind, except shell-fish, on the sea coast and shores, and in the bays, harbors, and creeks" of Newfoundland, is both seriously "modified" and injuriously affected by municipal legislation, which closes such fishery absolutely for seven months of the year, prescribes a special method of exercise, forbids exportation for five months, and, in certain localities, absolutely limits the three-mile area, which it was the express purpose of the treaty to open.

But this is not all. When the treaty of 1871 was negotiated, the British Government contended that the privilege extended to United States fishermen of free fishing within the three-mile territorial limit was so much more valuable than the equivalent offered in the treaty that a money compensation should be added to equalize the exchange. The Halifax Commission was appointed for the special purpose of determining that compensation, and, in order to do so, instituted an exhaustive examination of the history and value of the colonial fisheries, including the herring fishery of Newfoundland.

Before that commission, the United States Government contended that the frozen-herring fishery in Fortune Bay, Newfoundland, the very fishery now under discussion, was not a fishery, but a traffic; that the United States vessels which went there for herring always took out trading permits from the United States custom house, which no other fishermen did; that the herring were caught by the natives in their nets and sold to the vessels, the captains of which froze the herring after purchase, and transported them to market, and that consequently this was a trade, a commerce beneficial to the Newfoundlanders, and not to be debited to the United States account of advantages gained by the treaty. To this the British Government replied, that whatever the char-

acter of the business had been, the treaty now gave the United States fishermen the right to catch as well as purchase herring; that the superior character of the United States vessels, the larger capacity and more efficient instrumentality of the seines used by the United States fishermen, together with their enterprise and energy, would all induce the United States fishermen to catch herring for themselves, and thus the treaty gave certain privileges to the United States fishermen, which inflicted upon the original proprietor a certain amount of loss and damage, from this dangerous competition, which, in justice to their interests, required compensation. The exercise of these privileges, therefore, as stated in the British case, as evidenced in the British testimony, as maintained in the British argument, for which the British Government demanded and received compensation, is the British construction of the extent of the liberty to fish in common, guaranteed by the treaty.

Mr. Whiteway, then attorney-general of Newfoundland, and one of the British counsel before the commission, said in his argument:

And now one word with regard to the winter herring-fishery in Fortune Bay. It appears that from 40 to 50 United States vessels proceed there between the months of November and February, taking from thence cargoes of frozen herring of from 500 to 800 or 1,000 barrels. According to the evidence, these herrings have hitherto generally been obtained by purchase. It is hardly possible, then, to conceive that the Americans will continue to buy, possessing as they now do the right to catch.

The British case states the argument as to the Newfoundland fisheries in the following language:

It is asserted on the part of Her Majesty's Government, that the actual use which may be made of this privilege at the present moment is not so much in question as the actual value of it to those who may, if they will, use it. It is possible, and even probable, that the United States fishermen may at any moment avail themselves of the privilege of fishing in Newfoundland inshore waters to a much larger extent than they do at present; but even if they should not do so, it would not relieve them from the obligation of making the just payment for a right which they have acquired subject to the condition of making that payment. The case may be not inaptly illustrated by the somewhat analogous one of a tenancy of shooting or fishing privileges; it is not because the tenant fails to exercise the rights which he has acquired by virtue of his lease that the proprietor should be debarred from the recovery of his rent.

There is a marked contrast to the advantage of the United States citizens between the privilege of access to fisheries the most valuable and productive in the world and the barren right accorded to the inhabitants of Newfoundland, of fishing in the exhausted and preoccupied waters of the United States, north of the 39th parallel of north latitude, in which there is no field for lucrative operations, even if British subjects desired to resort to them; and there are strong grounds for believing that yearly year, as United States fishermen resort in greater numbers to the coasts of Newfoundland, for the purpose of procuring bait and supplies, they will become more intimately acquainted with the resources of the inshore fisheries and their unlimited capacity for extension and development. As a matter of fact United States vessels have, since the Washington Treaty came into operation, been successfully engaged in these fisheries; and it is but reasonable to anticipate that as the advantages to be derived from them become more widely known larger numbers of United States fishermen will engage in them.

A participation by fishermen of the United States in the freedom of these waters must, notwithstanding their wonderfully reproductive capacity, tell materially on the local catch, and, while affording to the United States fishermen a profitable employment, must seriously interfere with local success. The extra amount of bait which is required for the supply of the United States demand for the bank fisheries must have the effect of diminishing the supply of cod for the inshores, as it is well known that the presence of that fish is caused by the attraction offered by a large quantity of bait fishes, and as this quantity diminishes the cod will resort in fewer numbers to the coast.

The effect of this diminution may not in all probability be apparent for some years to come, and whilst United States fishermen will have the liberty of enjoying the fisheries for several years in their present teeming and remunerative state, the effects of overfishing may, after their right to participate in them has lapsed, become seriously prejudicial to the interests of the local fishermen.

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II. The privilege of procuring bait and supplies, refitting, drying, transshipping, &c.

Apart from the immense value to United States fishermen of participation in the Newfoundland inshore fisheries, must be estimated the important privilege of procuring bait for the prosecution of the bank and deep-sea fisheries, which are capable of unlimited expansion. With Newfoundland as a basis of operations, the right of procuring bait, refitting their vessels, drying and curing fish, procuring ice in abundance for the preservation of bait, liberty of transshipping their cargoes, &c., an almost continuous prosecution of the bank fishery is secured to them. By means of these advantages, United States fishermen have acquired by the Treaty of Washington all the requisite facilities for increasing their fishing operations to such an extent as to enable them to supply the demand for fish food in the United States markets, and largely to furnish the other fish markets of the world, and thereby exercise a competition which must inevitably prejudice Newfoundland exporters. It must be remembered, in contrast with the foregoing, that United States fishing craft, before the conclusion of the treaty of Washington, could only avail themselves of the coast of Newfoundland for obtaining a supply of wood and water, for shelter, and for necessary repairs in case of accident, and for no other purpose whatever. They therefore prosecuted the bank fishery under great disadvantages, notwithstanding which, owing to the failure of the United States local fisheries, and the consequent necessity of providing new fishing grounds, the bank fisheries have developed into a lucrative source of employment to the fishermen of the United States.

That this position is appreciated by those actively engaged in the bank fishery is attested by the statement of competent witnesses, whose evidence will be laid before the Commission.

And in the reply of the British Government, referring to the same Newfoundland fisheries, is the following declaration:

As regards the herring fishery on the coast of Newfoundland, it is availed of to a considerable extent by the United States fishermen, and evidence will be adduced of large exportations by them in American vessels, particularly from Fortune Bay and the neighborhood, both to European and their own markets.

The presence of United States fishermen upon the coast of Newfoundland, so far from being an advantage, as is assumed in the answer, operates most prejudicially to Newfoundland fishermen. Bait is not thrown overboard to attract the fish, as asserted, but the United States bank fishing vessels, visiting the coast in such large numbers as they do for the purpose of obtaining bait, sweep the coast, creeks, and inlets, thereby diminishing the supply of bait for local catch and scaring it from the grounds, where it would otherwise be an attraction for cod.

In support of these views, the most abundant testimony was produced by the British Government showing the extent of the United States herring fishery, the character and construction of the seines used, the time when the vessels came and left, and the employment of the native fishermen by the United States vessels. And it follows unanswerably that upon the existence of that fishery between the months of October and April (the very time prohibited by the colonial law), and upon the use of just such seines as were used by the complainants in this case (the very seines forbidden by the colonial law), and because the increasing direct fishery of the United States vessels was interfering with native methods and native profits, the British Government demanded and received compensation for the damages thus alleged to proceed from "the liberty to take fish of every kind" secured by the treaty.

This Government cannot anticipate that the British Government will now contend that the time and method for which it asked and received compensation are forbidden by the terms of the very treaty under which it made the claim and received the payment. Indeed, the language of Lord Salisbury justifies the Government of the United States in drawing the conclusion that between itself and Her Britannic Majesty's Government there is no substantial difference in the construction of the privileges of the treaty of 1871, and that in the future the colonial regulation of the fisheries with which, as far as their own interests are concerned, we have neither right nor desire to intermeddle, will not be

allowed to modify or affect the rights which have been guaranteed to citizens of the United States.

You will therefore say to Lord Salisbury that the Government of the United States considers the engagements of the treaty of 1871 contravened by the local legislation of Newfoundland, by the prohibition of the use of seines, by the closing of the fishery with seines between October and April, by the forbidding of fishing for the purpose of exportation between December and April, by the prohibition to fish on Sunday, by the allowance of nets of only a specified mesh, and by the limitation of the area of fishing between Cape Ray and Cape Chapeau Rouge. Of course, this is only upon the supposition that such laws are considered as applying to United States fishermen; as local regulations for native fishermen we have no concern with them. The contravention consists in excluding United States fishermen during the very times in which they have been used to pursue this industry, and forbidding the methods by which alone it can be profitably carried on. The exclusion of the time from October to April covers the only season in which frozen herring can be procured, while the prohibition of the seines would interfere with the vessels, who, occupied in cod-fishing during the summer, go to Fortune Bay in the winter, and would consequently have to make a complete change in their fishing gear, or depend entirely upon purchase from the natives for their supply. The prohibition of work on Sunday is impossible under the conditions of the fishery. The vessels must be at Fortune Bay at a certain time, and leave for market at a certain time. The entrance of the schools of herring is uncertain, and the time they stay equally so. Whenever they come they must be caught, and the evidence in this very case shows that after Sunday, the 6th of January, there was no other influx of these fish, and that prohibition on that day would have been equivalent to shutting out the fishermen for the season.

If I am correct in the views hitherto expressed, it follows that the United States Government must consider the United States fishermen as engaged in a lawful industry, from which they were driven by lawless violence at great loss and damage to them, and that as this was a violation of rights guaranteed by the Treaty of Washington, between Great Britain and the United States, they have reasonable ground to expect at the hands of Her Britannic Majesty's Government proper compensation for the loss they have sustained. The United States Government, of course, desires to avoid an exaggerated estimate of the loss which has been actually sustained, but thinks you will find the elements for a fair calculation in the sworn statement of the owners, copies of which are herewith sent. You will find in the printed pamphlet which accompanies this, and which is the statement submitted to this department on behalf of twenty of the vessels, the expense of each vessel in preparation for the fishery and her estimated loss and damage. The same statement with regard to the two vessels New England and Ontario, not included in this list of twenty, you will find attached hereto, thus making a complete statement for the twenty two vessels which were at Fortune Bay on the 6th January, 1878, and the Government of the United States sees no reason to doubt the accuracy of these estimates. I find upon examining the testimony of one of the most intelligent of the Newfoundland witnesses called before the Halifax Commission by the British Government, Judge Bennett, formerly Speaker of the Colonial House, and himself largely interested in the business, that he estimates the Fortune Bay business in frozen herring, in the former years of purchase, at 20,000 to 25,000 barrels for the season and that it was increasing, and this is confirmed by others.

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The evidence in this case shows that the catch which the United States fishing fleet had on this occasion actually realized was exceptionally large, and would have supplied profitable cargoes for all of them. When to this is added the fact that the whole winter was lost and these vessels compelled to return home in ballast; that this violence had such an effect on this special fishery that in the winter of 1878-79 it has been almost entirely abandoned, and the former fleet of twenty-six vessels has been reduced to eight, none of whom went provided with seines, but were compelled to purchase their fish of the inhabitants of Newfoundland, the United States Government is of opinion that \$105,305.02 may be presented as an estimate of the loss as claimed, and you will consider that amount as being what this Government will regard as adequate compensation for loss and damage.

In conclusion I would not be doing justice to the wishes and opinions of the United States Government if I did not express its profound regret at the apparent conflict of interests which the exercise of its treaty privileges appears to have developed. There is no intention on the part of this Government that these privileges should be abused, and no desire that their full and free enjoyment should harm the Colonial fishermen. While the differing interests and methods of the shore fishery and the vessel fishery make it impossible that the regulation of the one should be entirely given to the other, yet if the mutual obligations of the treaty of 1871 are to be maintained, the United States Government would gladly co-operate with the Government of Her Britannic Majesty in any effort to make those regulations a matter of reciprocal convenience and right; a means of preserving the fisheries at their highest point of production, and of conciliating a community of interest by a just proportion of advantages and profits.

I am, etc.,

WM. M. EVARTS.

[Inclosures.]

1. Messrs. Foster and Trescott to the Secretary of State, with appendix (printed pamphlet).
2. Statement of loss to the schooners *New England* and *Ontario*.

[Appendix A. No. 317.]

FILED JANUARY 25, 1879.

To the Hon. THE SECRETARY OF STATE:

SIR: We have to acknowledge the receipt of Lord Salisbury's replies to your communications in reference to the attack upon the United States fishing vessels in Fortune Bay, Newfoundland, with the affidavits inclosed.

After the most careful examination of these affidavits and a scrutinizing review of the affidavits made by the United States fishermen in support of their complaint, we cannot discover any facts or contradictions which discredit their history of the transaction.

There seems to be no dispute as to the following facts:

1. That twenty-two vessels, viz: Fred. P. Frye, Mary M., Lizzie and Namari, Edward F. Webster, W. E. MacDonald, Crest of the Wave, F. A. Smith, Hereward, Moses Adams, Charles E. Warren, Moro Castle, Wildfire, Maud and Effie, Isaac Rich, Bunker Hill, Boscawen, H. M. Rogers, Moses Knowlton, John W. Bray, Maud B. Wethersell, New England, and Ontario went from Gloucester to Fortune Bay in the winter of 1877-78 for the purpose of procuring herring, as was their usual custom, and as they were entitled to do under the treaty of 1871.
2. That previous to that winter the United States fishermen had always purchased their herring of the Newfoundlanders, paying them in money or provisions, and a

large and profitable trade had sprung up between the Americans and the inhabitants. The value of this trade to the inhabitants of Newfoundland clearly appears in the following extract from the British case before the Halifax Commission:

"It is not at all probable that possessing as they now do the right to take herring and capelin for themselves on all parts of the Newfoundland coasts, they will continue to purchase as heretofore, and they will thus prevent the local fishermen, especially those of Fortune Bay, from engaging in a very lucrative employment, which formerly occupied them during a portion of the winter season for the supply of the United States market."

Furthermore, in the affidavits of the Newfoundland fishermen forwarded by Lord Salisbury, it is plainly admitted that the only way in which the local fishermen can dispose of their herring is by selling them to the Americans.

In January, 1878, however, for the first time, the American vessels carried with them larger seines in order to take their own herring and save the expense of purchasing from the Newfoundlanders.

Captain Malonson, of the schooner *Crest of the Wave*, in his affidavit, says:

"The Newfoundland fishermen have for years been in the habit of selling all the herring to American vessels. I have been there eight years, and I have always bought my herring or engaged the Newfoundlanders to take them for me, paying them in cash. This has been the universal practice of American vessels. This year we carried the large mackerel seines we use in summer for taking mackerel. These seines will take from two to five thousand barrels at a haul, and the herring are better taken in this way. As most of the Newfoundlanders fish with gill-nets, our manner of seining would take away from them the monopoly of the herring trade."

The truth of Captain Malonson's affidavit, and that of the other American captains, is shown by the British affidavits:

"The Americans never used a seine before that day; they always employed the English to use their seines, and bought fish from the English." (Deposition of John Saunders.)

"The Americans do not bar fish. This was the first time I ever knew them to do so. They usually buy the fish from the Newfoundlanders, and also barter flour and pork for them." (Deposition of Mark Bolt.)

"We all consider it to be the greatest loss to us for the Americans to bring those large seines to catch herring. The seines will hold 2,000 or 3,000 barrels of herring, and if the soft weather continues, they are obliged to keep them in seines for sometimes two or three weeks until the frost comes, and by this means they deprive the poor fishermen of the bay of their chance of catching any with their small nets, and thus, when they have secured a sufficient quantity of their own, they refuse to buy of the natives." (Deposition of John Tharnely.)

"They would have probably frightened therest away, and it would have been useless for the English to stay, for the little left for them to take they could not have sold." (Deposition of John Cluett.)

The evidence offered by Her Majesty's Government before the Halifax Commission fully bears out the above affidavits and shows that previously to 1877 the so-called Newfoundland herring fishery was merely a purchase by the Americans of fish caught by the Newfoundlanders, and no attempt had ever been made by the Americans to take the fish themselves; that in the winter of 1877-78 the American vessels, taking advantage of their rights under the Treaty of Washington, carried down with the seines in order to take their own herring, and that the consequent loss of a valuable trade to the inhabitants, as foreseen by the British agent at the Halifax Commission, had taken place.

3. That these vessels waited for several weeks (from about December 15, 1877, to January 6, 1878) for the expected arrival of schools of herring in Fortune Bay.

4. That on Sunday, January 6, 1878, the herring entered the bay in great numbers, and that four of the vessels sent their boats with seines to commence fishing operations, and the others were proceeding to follow.

5. That the parties thus seining were compelled, by a large and violent mob of the inhabitants of Newfoundland, to take up their seines, discharge the fish already in closed, and abandon their fishery; and that in one case, at least, the seine was also utterly destroyed. But the British and American affidavits give substantially the same account of this transaction.

6. That these seines were being used in the interest of an United States vessel waiting for cargoes in the harbor, and that the catch, undisturbed would have been sufficient to load them all with profitable cargoes. The great quantity of fish in the harbor, and the fact that the American vessels if permitted to fish, would have obtained full cargoes, is admitted in the British deposition.

"If the Americans had been allowed to secure all the herrings in the bay for themselves, which they could have done that day, they would have filled all their vessels, and the neighboring fishermen would have lost all chance on the following week-day." (Deposition of James Searwell.)

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"The Americans, by hauling herring that day, when the Englishmen could not, were robbing them of their lawful and just chance of securing their share in them, and further, had they secured all they had barred, they would, I believe, have filled every vessel of theirs in the bay." (Deposition of John Cluett.)

See also the affidavits of the American captains.

7. That in consequence of this violence all the vessels abandoned the fishing grounds; some without cargoes, some with very small cargoes purchased from the natives, and that their voyages were a loss to their owners.

8. That the seining was conducted at a distance from any land or fishing privilege in the occupation of any British subject. (See affidavits Willard G. Rode, Charles Dagle, and Michael B. Murray.)

9. That none of the vessels of the United States made any further attempts to fish, but three or four which were delayed in the neighborhood purchased small supplies of herring. (See British depositions of John Saunders and Silas Fudge, wherein it is stated that the American vessels only remained a few days, and that after January 6 no fish came into the harbor.) All the American affidavits show that the United States vessels were afraid to use their seines after this, and that they left almost immediately, most of them coming home in ballast.

10. That this violence has had such an effect on this special fishing industry that in the present winter of 1878-1879 it has been almost entirely abandoned, and last winter's fleet of twenty-six (26) has been reduced to eight (8), and none of these have gone provided with seines, but they will all be compelled to purchase their fish of the inhabitants of Newfoundland. (See statement of the collector of the port of Gloucester.)

In support of these facts we append hereto—

1. A list of the vessels whose owners we represent.

2. The affidavits of the masters and crews of the same vessels.

3. Sworn statements of the owners as to the actual expenses of each vessel upon the interrupted voyage, the average profit of their previous voyages, and the loss of cargoes consequent upon their forcible expulsion in this case.

4. Statements of the collector of the port of Gloucester, giving the number of vessels engaged in the Newfoundland herring fishery in the winters of 1877-1878 and 1878-1879.

In the dispatch of Lord Salisbury, dated August 23, 1878, the British Government assert that "the United States fishermen on this occasion had committed three distinct breaches of the law," as stated in the report of Captain Sullivan, viz:

"1. That the Americans were using seines for catching herring on the 6th of January, 1878, in direct violation of Title XXVII, chapter 102, section 1, of the consolidated statutes of Newfoundland, viz: 'No person shall haul or take herring by or in a seine or other such contrivance on or near any part of the coast of this colony, or of its dependencies, or in any of the bays, harbors, or other places therein, at any time between the 20th day of October and the 25th day of April.'

"2. That the American captains were setting and putting out seines and hauling and taking herring on Sunday, the 6th of January, in direct violation of section 4, chapter 7, of the act passed 26th April, 1876, entitled, 'An act to amend the law relating to the coast fisheries,' viz: 'No person shall between the hours of twelve o'clock on Saturday night and twelve o'clock on Sunday night haul or take any herring, capelin, or squib, with net, seines, bunts, or any such contrivance for the purpose of such hauling or taking.'

"3. That they were barring fish in direct violation of the continuance of the same act, Title XXVII, chapter 102, section 1, of the consolidated statutes of Newfoundland, viz: 'No person shall at any time use a seine or other contrivance for the catching or taking of herrings, except by way of shooting and forthwith hauling the same.'

Leaving to your own consideration the general question whether or not colonial legislatures can enact any laws or local regulations which will in any way control or limit the United States fisherman while pursuing his avocation under the Treaty of Washington, we desire to call your attention to the full text of the laws alleged to be infringed (copies of which, as well as of an amendment passed April, 1877, are herewith inclosed).

Title XXXVII, chap. 102, of the consolidated acts of Newfoundland provides—

"SECTION 1. That no person shall take herring on the coast of Newfoundland by a seine or any other such contrivance at any time between the 20th day of October and the 12th day of April in any year, or at any time use a seine except by way of shooting and forthwith hauling the same.

"SEC. 2. That no person shall, at any time between the 20th day of December and the 12th day of April in any year, catch or take herring with seines of less than 2½ inches mesh, &c.

"SEC. 3. No person shall, between the 20th day of April and the 20th day of October in any year, haul, catch, or take herring or other bait, for exportation, within one

"It is asserted, on the part of Her Majesty's Government, that the actual use which may be made of this privilege at the present moment is not so much in question as the actual value of it to those who may, if they will, use it. It is possible, and even probable, that the United States fishermen may at any moment avail themselves of the privilege of fishing in Newfoundland inshore waters to a much larger extent than they do at present; but even if they should not do so, it would not relieve them from the obligation of making the just payment for a right which they have acquired subject to the condition of making that payment. The case may be not inaptly illustrated by the somewhat analogous one of a tenancy of shooting or fishing privileges; it is not because the tenant fails to exercise the rights which he has acquired by virtue of his lease that the proprietor should be debarred from the recovery of his rent.

"There is a marked contrast, to the advantage of the United States citizens, between the privilege of access to fisheries the most valuable and productive in the world and the barren right accorded to the inhabitants of Newfoundland of fishing in the exhausted and preoccupied waters of the United States north of the 39th parallel of north latitude, in which there is no field for lucrative operations, even if British subjects desired to resort to them; and there are strong grounds for believing that year by year, as United States fishermen resort in greater numbers to the coasts of Newfoundland for the purpose of procuring bait and supplies, they will become more intimately acquainted with the resources of the inshore fisheries and their unlimited capacity for extension and development. As a matter of fact United States vessels have, since the Washington Treaty came into operation, been successfully engaged in these fisheries; and it is but reasonable to anticipate that, as the advantages to be derived from them become more widely known, larger numbers of United States fishermen will engage in them.

"A participation by fishermen of the United States in the freedom of these waters must, notwithstanding their wonderfully reproductive capacity, tell materially on the local catch, and, while affording to the United States fishermen a profitable employment, must seriously interfere with local success. The extra amount of bait also which is required for the supply of the United States demand for the Bank fishery must have the effect of diminishing the supply of cod for the inshore, as it is well known that the presence of that fish is caused by the attraction offered by a large quantity of bait fishes, and as this quantity diminishes the cod will resort in fewer number to the coast. The effect of this diminution may not in all probability be apparent for some years to come, and whilst United States fishermen will have the liberty of enjoying the fisheries for several years in the present teeming and remunerative state, the effects of overfishing may, after their right to participate in them has lapsed, become seriously prejudicial to the interest of the local fishermen.

"II. The privilege of procuring bait and supplies, refitting, drying, transshipping, etc.

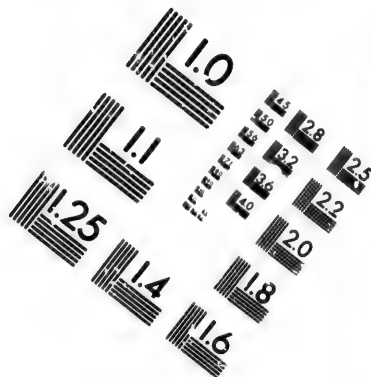
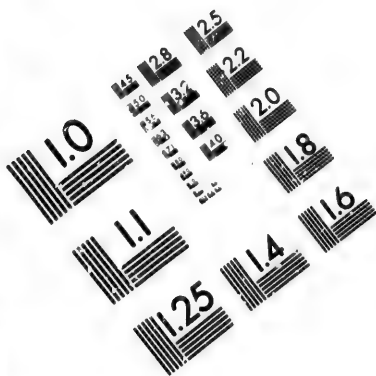
"Apart from the immense value to United States fishermen of participation in Newfoundland inshore fisheries must be estimated the important privilege of procuring bait for the prosecution of the Bank and deep-sea fisheries, which are capable of unlimited expansion. With Newfoundland as a basis of operations, the right of procuring bait, refitting their vessels, drying and curing fish, procuring ice in abundance for the preservation of bait, liberty of transshipping their cargoes, etc., an almost continuous prosecution of the Bank fishery is secured to them. By means of these advantages United States fishermen have acquired by the Treaty of Washington all the requisite facilities for increasing their fishing operations to such an extent as to enable them to supply the demand for fish food in the United States markets, and largely to furnish the other fish markets of the world, and thereby exercise a competition which must inevitably prejudice Newfoundland exporters. It must be remembered, in contrast with the foregoing, that United States fishing craft before the conclusion of the Treaty of Washington could only avail themselves of the coast of Newfoundland for obtaining a supply of wood and water, for shelter, and for necessary repairs in case of accident, and for no other purpose whatever; they therefore prosecuted the Bank fishery under great disadvantages, notwithstanding which, owing to the failure of the United States local fisheries and the consequent necessity of providing new fishing grounds, the Bank fisheries have developed into a lucrative source of employment to the fishermen of the United States. That this position is appreciated by those actively engaged in the Bank fisheries is attested by the statements of competent witnesses, whose evidence will be laid before the commission."

And in the reply of the British Government, referring to the same Newfoundland fisheries, is the following declaration:

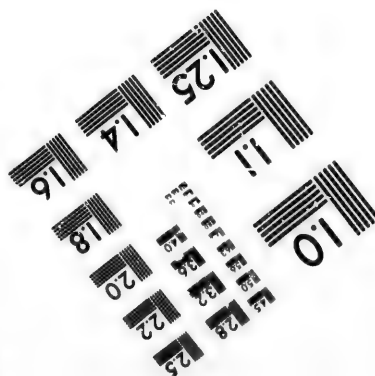
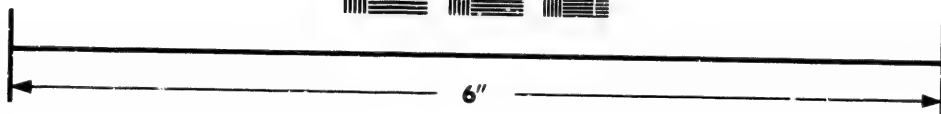
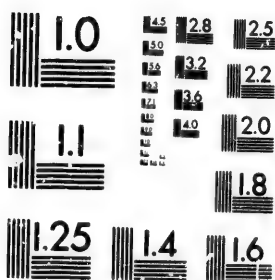
"As regards the herring fishery on the coast of Newfoundland, it is availed of to a considerable extent by the United States fishermen, and evidence will be adduced of large exportations by them in American vessels, particularly from Fortune Bay and the neighborhood, both to European and their own markets.

"The presence of United States fishermen upon the coast of Newfoundland, so far





**IMAGE EVALUATION
TEST TARGET (MT-3)**



Photographic Sciences Corporation

**23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503**

14 128
13 132
12 225
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10

from being an advantage, as is assumed in the answer, operates most prejudicially to Newfoundland fishermen. Bait is not thrown overboard to attract the fish, as asserted, but the United States Bank fishing vessels, visiting the coast in such large numbers as they do for the purpose of obtaining bait, sweep the coast, creeks, and inlets, thereby diminishing the supply of bait for local catch, and searing it from the grounds where it would otherwise be an attraction for cod."

In support of these views, the most abundant and complete testimony was produced by the British Government, showing the extent of the United States herring fishery, the character and construction of the seines used, the time when the vessels came and left, and the employment of the native fishermen by the United States vessels. And it follows unanswerably that upon the existence of that fishery between the months of October and April, and upon the use of just such seines as were used by the complainants in this case, and because the increasing direct fishery of the United States vessels was interfering with native methods and native profits, the British government demanded and received compensation for the damages thus alleged to proceed from "the liberty in common to take fish of every kind" secured by the treaty. With what justice can the British Government now contend that the time and the method for which they asked and received compensation are forbidden by the terms of the very treaty under which they made the claim and received the payment?

In conclusion, and in reference to the suggestion of Lord Salisbury that the United States fishermen were bound to abstain from the use of the fishery until due representation had been made to Her Britannic Majesty's government, we would say, without argument as to the correctness of any such assumption, that as a fact this is just what the United States fishermen did. They were engaged in the prosecution of a lawful industry, in a method which was recognized as lawful by the award of the Halifax Commission, the privilege to exercise which their government had agreed to pay for. They were forcibly stopped, not by legal authority, but by mob violence. They made no resistance; withdrew from the fishing grounds; represented the outrage to their Government; have not returned to Newfoundland, and are waiting in perfect confidence that the Government will vindicate their rights, and see that just compensation is made for their losses.

Respectfully,

DWIGHT FOSTER,
WM. HENRY TRESCOT,
Counsel for Claimant.

APPENDIX.

A.

List of vessels.

<i>Vessels.</i>	<i>Owners.</i>
1. Fred. P. Frye	Brown, Seavy & Co.
2. Mary M	Brown, Seavy & Co.
3. Lizzie and Namari	John F. Wonson & Co.
4. Edward E. Webster	Dennis and Ayer.
5. William E. MacDonald	William Parsons 2d & Co.
6. Crest of the Wave	William B. Coombs.
7. F. A. Smith	Plummer & Friend.
8. Hereward	James Mansfield's Sons.
9. Moses Adams	Samuel Lane & Bro.
10. Charles E. Warren	Peter Smith.
11. Moro Castle	Hardy & Allen.
12. Wildfire	Andrew Leighton.
13. Maud and Fille	W. H. Gardner & S. G. Bole.
14. Isaac Rich	Walen & Allen.
15. Bunker Hill	Walen & Allen.
16. Bonanza	H. C. Allen.
17. Moses Knowlton	John Low.
18. H. M. Rogers	Rowe & Jordan.
19. John W. Bray	J. F. Wonson & Co.
20. Maud B. Wetherell	Geo. Dennis & Co.

prejudicially to
the fish, as
in such large
ast, creeks, and
ring it from the

ny was produced
herring fishery,
vessels came and
es vessels. And
reen the months
sed by the com-
the United States
tish government
to proceed from
eaty. With what
the method for
erms of the very

y that the United
ntil due represen-
ould say, without
t this is just what
ution of a lawful
rd of the Halifax
agreed to pay for
nce. They made
e outrage to their
ing in perfect con-
just compensation

B.

Expenses and claims.

	Expenses.	Claims.
1. Fred. D. Frye	\$1,700 30	\$3,725 00
2. Mary M.	2,180 53	5,676 50
3. Lizzie and Namari	3,133 05	5,564 40
4. Edward E. Webster	1,754 50	4,654 50
5. William E. MacDonald	2,153 95	4,953 95
6. Crest of the Wave	2,019 04	4,019 04
7. F. A. Smith	2,495 50	4,895 50
8. Hereward	3,800 00	5,748 05
9. Moses Z. damm	1,586 05	4,586 05
This vessel also makes an additional claim for value herring in her net, be- sides her full cargo		4,000 00
10. Charles E. Warren	2,180 00	4,680 00
11. Moro Castle	2,153 18	4,134 19
12. Wildfire	1,530 97	6,309 82
13. Maud and Effie	2,379 13	4,379 13
14. Isaac Rich	1,150 09	2,491 09
15. Bunker Hill	1,217 50	2,677 00
16. Bonanza	2,855 94	3,022 17
17. Moses Knowlton	2,091 60	5,356 00
18. H. M. Rogers	1,946 13	5,876 30
19. John W. Bray	2,714 52	3,589 07
20. Maud B. Wetherell	2,618 64	2,521 34

C.

STATEMENT OF LOSS.

Schooner Fred. P. Frye.

This vessel was chartered by Brown, Seavy & Co. for a trip to Fortune Bay for herring in January, 1878.

They paid the owners of the schooner for the charter	\$800 00
Expenses of the voyage, crew's wages, provisions, &c., amounted to	1,350 00
Making the amount actually paid out in cash	2,150 00
Credit partial cargo of herring sold	450 00
	1,700 00
Add probable profit calculated from preceding trips	2,000 00
	3,700 00

BROWN, SEAVEY, CO
By WM. SEAVEY.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss :

DECEMBER 28, 1878.

Then personally appeared the above-named William Seavy and made oath that the foregoing statement by him subscribed was true, before me.

ALFRED D. FOSTER,
Notary Public.

Schooner Mary M.

Bill of expense on a voyage to Newfoundland for herring from December 6, 1877, to February 26, 1878 :

Dr.

Ship stores	\$295 35
Lumber at Labrador	85 25
Custom-house fees	58 75
Ballast	58 50
Officers' and crew's wages	677 68
Insurance	525 00
Cargo for trade	400 00
Riggers' and blacksmith bill	80 00
	2,180 33
Average profits of Newfoundland voyages made by schooner Mary M., Cap- tain Murray, for ten seasons (except the year 1876)	3,500 00
	5,680 50

FOSTER,
RY TRESCOT,
essel for Claimant.

rs.
avy & Co.
avy & Co.
Vinson & Co.
d Ayer.
arsons & Co.
B. Coombs.
& Friend.
nsfield's Sons.
ane & Bro.
th.
Allen.
leighton.
rner & S. G. Bole.
Allen.
Allen.
en.
Jordan.
son & Co.
nis & Co.

CR.

By return cargo..... \$200 00
 5,480 50

MICHAEL B. MURRAY.

MASSACHUSETTS,
Essex, ss :

GLOUCESTER, December 23, 1878.

Personally appeared M. B. Murray and made oath to the truth of the statement signed by him, before me.

[SEAL.]

AARON PARSONS, N. P.

Schooner Lizzie and Namari.

Actual expense of voyage to Fortune Bay, Newfoundland, January, 1878:

Port charges.....	\$44 25
Store account.....	273 01
Outfits for voyage.....	1,245 48
Charter of vessel.....	683 33
Wood and coal.....	22 30
Crew's wages.....	526 34
Captain's wages.....	273 06
Insurance on outfits.....	65 87
	3,133 65
Profit compared with previous years.....	3,000 00
	6,133 65
Deduct merchandise and cash returned	569 25
	5,564 40

This vessel was hired by us, and we actually paid in cash the amount placed in the above account as charter.

JOHN F. WONSON & CO.

GLOUCESTER, December 23, 1878.

MASSACHUSETTS,
Essex, ss :

GLOUCESTER, December 23, 1878.

Personally appeared Frank A. Wonson, a member of the firm of J. F. Wonson & Co., and made oath to the truth of the statement signed by him.

Before me.

[L. S.]

AARON PARSONS, N. P.

Schooner Edward E. Webster.

Expenses, actual money paid out in voyage to Fortune Bay, January, 1878:

Captain, mate, and crew's wages.....	\$720 00
Insurance.....	560 00
Ballast.....	60 00
Lumber for platform and stage.....	62 50
Provisions.....	250 00
Refitting in Newfoundland.....	100 00
	1,752 50
A preceding trip of this vessel to Fortune Bay for herring in the year 1875 netted.....	5,400 00
The expenses were.....	2,500 00
Leaving a profit of.....	2,900 00

This vessel was driven off without obtaining any herring, and her voyage resulted in a loss of—

(1.) The actual expenses.....	1,754 50
(2.) Profit on voyage, provided the vessel did no better than the previous year.....	2,900 00
	4,654 50

DENNIS & SON,
Per J. G. DENNIS.

COMMONWEALTH OF MASSACHUSETTS,
Essex, ss :

GLOUCESTER, December 20, 1878.

Then personally appeared the above-named George Dennis, and made oath to the truth of the foregoing statement before me,

ALFRED D. FOSTER,
Notary Public.

Schooner William E. MacDonald.

Actual expenses, money paid out for trip to Fortune Bay, January, 1878:

Store bill.....	\$297 83
Railway and carpenter.....	34 86
Sailmaker.....	465 50
Painting.....	34 76
Blacksmith.....	4 45
Captain's bill.....	159 98
Wages.....	670 50
Insurance.....	412 00
Sundry bills.....	74 07
Total actual expenses.....	2,153 95
Probable profit, calculated on an average of preceding years.....	2,800 00
Total loss.....	4,953 95

WM. PARSONS, 2d, &c.

MASSACHUSETTS,
Essex, ss :

GLOUCESTER, December 23, 1878.

Personally appeared William Parsons, 2d, and made oath the statement made and signed by him is true.

Before me,
[L. S.]

AARON PARSONS, N. P.

Schooner Crest of the Wave.

Actual expenses of the trip to Fortune Bay for herring in the month of January, 1878:

Store bill.....	\$575 19
Crew's wages.....	674 00
Insurance.....	350 00
Outfit for vessel, &c.....	944 85
Ballast.....	75 00
	2,619 04

The probable profit on a trip for herring to Newfoundland, calculated from preceding years.....	2,000 00
Add actual expenses.....	2,619 04
	4,619 04

WILLIAM B. COOMBS.

COMMONWEALTH OF MASSACHUSETTS,
Essex, ss ;

GLOUCESTER, December 20, 1878.

Then personally appeared the above-named William B. Coombs, and made oath that the foregoing statement by him subscribed was true.

Before me,

ALFRED D. FOSTER,
Notary Public.

Schooner F. A. Smith.

Actual expenses of voyage to Fortune Bay for herring in January, 1878; money paid out:

Captain and crew's wages.....	\$710 00
Insurance.....	470 00
Ballast.....	55 00
Lumber.....	60 50
Provisions.....	250 00
Refitting at Newfoundland.....	90 00

1,645 50

This vessel was hired for the trip, and \$850.00 was actually paid for the charter..... 850 00

Profit of a fair average voyage, calculated on previous voyages..... 2,495 50
2,400 00

4,895 50

JOSEPH FRIEND.
GEORGE W. PLUMMER.
B. T. FRIEND.

COMMONWEALTH OF MASSACHUSETTS,

Essex, ss :

GLOUCESTER, December 29, 1878.

Then personally appeared the above-named Joseph Friend and made oath that the foregoing statement by him subscribed was true.

Before me,

ALFRED D. FOSTER,
Notary Public.

Schooner Hereward.

The actual expenses of this vessel in the voyage to Fortune Bay in January, 1878, were:

Outfit for voyage.....	\$1,900 00
Wages four months.....	1,000 00
Provisions.....	400 00
Outfit for vessel, fitting out, &c.....	400 00
Insurance.....	600 00

4,300 00

Less part of outfit returned..... 500 00

3,800 00

If this vessel had made a fairly prosperous voyage her profit would have been..... 2,000 00

5,800 00

Less small amount of herring brought back..... 62 00

5,748 00

This vessel having been prevented from obtaining a cargo in Newfoundland, her loss was..... 5,748 00

A seine was carried down by this vessel, which was destroyed by the natives who were hired to set it.

JAMES MANSFIELD & SONS,
By ALFRED MANSFIELD.

COMMONWEALTH OF MASSACHUSETTS

Essex, ss :

GLOUCESTER, December, 20, 1878

Then personally appeared the above-named Alfred Mansfield and made oath that the foregoing statement by him subscribed was true.

Before me,

ALFRED D. FOSTER.
Notary Public.

Account of the schooner Moses Adams's herring voyage to Newfoundland in 1877.

1878; money paid

.....	\$710 00
.....	470 00
.....	55 00
.....	60 50
.....	260 00
.....	90 00
.....	1,645 50
d for the	850 00
.....	2,495 50
.....	2,400 00
.....	4,895 50

I FRIEND.
E W. PLUMMER.
IEND.

December 29, 1878.
made oath that the

D. FOSTER,
Notary Public.

ay in January, 1878

.....	\$1,900 00
.....	1,000 00
.....	400 00
.....	400 00
.....	600 00
.....	4,300 00
.....	500 00
.....	3,800 00

ould have

.....	2,000 00
.....	5,800 00
.....	62 00

oundland,

y the natives who

SFIELD & SONS,
NSFIELD.

December, 20, 1878.
nd made oath that

D. FOSTER,
Notary Public.

Outfits for voyage.....	\$1,003 83
Cash paid out in British Provinces for sundries.....	110 00
Cash paid for herring.....	199 00
Insurance.....	549 60
Wages paid captain and crew.....	744 87
	\$2,607 30
Cash received for herring sold.....	1,021 25
	1,586 05
Probable profit if arrive home with a full cargo.....	3,000 00
	4,586 05
Value of herring lost by mob tripping the seine which would have been so'd to other vessels waiting to purchase.....	4,000 00
Total loss to the schooner caused by the mob	8,586 05

MEMORANDUM.

This schooner's seine was filled with herring when the mob tripped it, and they then endeavored to destroy the seine, but were prevented by the captain and crew, at the peril of their lives.

We had this schooner built for mackerel fishing in summer, and Newfoundland herring fishing in winter. She is all furnished with herring seines and boats for such business, but having been deprived the privilege of seining herring in Newfoundland, and by mobs, we have been obliged to abandon the enterprise, causing a great loss to us.

SAMUEL LANE & BRO.

MASSACHUSETTS,
Essex, ss:

JANUARY 3, 1879.

Sworn to before me this 3d day of January, A. D. 1879.

[SEAL.]

AARON PARSONS,
Notary Public.

Expenses of the schooner Chas. C. Warren on a voyage to Newfoundland in the winter of 1877 and 1878.

Outfits.

160 hogsheads salt	\$270 00
900 barrels	700 00
Outfits for voyage.....	1,400 00
Crew's wages	1,400 00
Insurance.....	250 00
Port charges.....	30 00
	4,050 00
400 barrels herring, (cash paid)	560 00
	4,610 00
Deduct return cargo:	
800 barrels herring	2,400 00
30 hogsheads salt	30 00
	2,430 00
Expense, loss	2,180 00
500 barrels herrings	2,500 00
Net loss	4,680 00

PETER SMITH.

STATE OF MASSACHUSETTS,
Essex, ss:

GLOUCESTER, December 14, 1878.

Personally appeared Peter Smith and made oath to the truth of the foregoing account signed by him.

Before me,

[SEAL.]

AARON PARSONS,
Notary Public.

Schooner Moro Castle.

Store bill, &c	\$191 46
Crew's wages	521 72
Ballast	30 00
Insurance	420 00
Cargo or outfits	900 00

Profit 1874 and '75	2, 153 18
	1, 981 01

4, 134 19

Schooner Moro Castle, Newfoundland voyage, 1877 and '78.

MCKENZIE, HARDY & CO

MASSACHUSETTS,

Essex, ss :

DECEMBER 12, 1878.

Personally appeared S. N. Hardy, and made oath to the truth of above statement before me.

[SEAL.]

AARON PARSONS,
Notary Public.

Account of Newfoundland voyage schooner Moro Castle, 1874 and '75.

Store bill	\$183 01
Outfits	1, 080 55
Custom fees, &c	14 50
Oakes V. Stevens' bill	2 97
Baskets	6 80
Bill of ballast	11 20
Bill of lumber	5 65
Shovels	2 50
J. G. Tarr & Bro.'s bill	20 17
Wood and coal	21 50
Telegraphing	3 36
Insurance	420 00
Crew's wages	479 65
Captain's wages	315 00
Capt. Naes' bill	174 68
Expenses to New York	14 00
Use of chain	15 00
Commission on sales	550 00

Cr.

For sales of herring, &c	3, 320 34
--------------------------------	-----------

1, 981 01

Schooner Wildfire.

Actual expenses in voyage to Fortune Bay in January, 1878.

Wages of captain and crew	\$628 27
Insurance	570 00
Ballast	58 00
Lumber and cost of erecting platform and stage	70 45
Provisions	204 33

1, 530 97

The last preceding voyage of this vessel to Fortune Bay, January, 1875, she brought back a cargo of herring, which sold for	6, 414 70
The expenses of that trip were	1, 535 85

Leaving a profit of	4, 878 85
---------------------------	-----------

As this vessel was driven away by the people of Newfoundland without obtaining a load of herring, the voyage resulted in a loss of—

(1.) Money actually paid as expenses	\$1, 530 97
(2.) Estimated profit, if the vessel did no better than last year	4, 878 85

6, 309 82

ANDREW LEIGHTON.

COMMONWEALTH OF MASSACHUSETTS,

Essex, ss :

GLOUCESTER, December 20, 1878.

Then personally appeared the above-named Andrew Leighton, and made oath that the foregoing statement by him subscribed was true.

Before me.

ALFRED D. FOSTER,
Notary Public.

Schooner *Maud & Effie*.

Actual expenses as paid out on account of voyage to Fortune Bay, January, 1878.

Post charges, Newfoundland	\$20 40
Store account	253 16
Outfits for voyage	1, 405 02
Lumber for scaffold	15 00
Ballast	40 00
Crew's wages	650 00
Captain's wages	375 00
Pilotage, Halifax	10 00
Insurance	375 00
Wood and coal	20 00
Railway	19 55
Loss on seine and gear	150 00
	3, 333 13
Deduct merchandise and cash returned	954 00
Loss on voyage	2, 379 13
On account of the disturbance made by the British fishermen of Fortune Bay, in January, 1878, resulted in a loss, as follows:	
Loss on voyage as expenses	\$3, 379 13
Profit on voyage as should have been, as compared with previous years	2, 000 00
Making an actual loss of	5, 379 13

GLOUCESTER FISH COMPANY,
WILLIAM H. GARDNER,
SAMUEL G. POOL.

COMMONWEALTH OF MASSACHUSETTS,

Essex, ss :

GLOUCESTER, December 2, 1878.

Then personally appeared the above-named W. H. Gardner and Samuel Pool, and made oath that the foregoing statement by them subscribed was true.

Before me.

ALFRED D. FOSTER,
Notary Public.

Schooner *Bunker Hill*.

NEWFOUNDLAND TRIP, January, 1878.

Wages	\$797 25
Insurance	450 00
Salt	375 00
Cash	413 00
Cargo for trade	954 20
Store bill	190 05
	3, 179 50
Sale of 981 barrels of herring, at \$2	1, 962 00
	1, 217 50

The cargo of the vessel had been contracted for at the rate of \$3 per barrel, but on account of the delay they brought \$2 per barrel, leaving a loss of 981 00 Full cargo would have been 1,300 barrels, but on account of disturbance did not obtain but 981 barrels, leaving a deficiency of 319, which would have cost \$478.50, were sold for \$957, leaving a loss of..... 478 50

Total..... 2, 677 00

WALEN & ALLEN,

HARDY & CO

CEMBER 12, 1878,
of above statement

N PARSONS,
Notary Public.

1874 and '75.

	\$183 01
	1, 090 55
	14 50
	2 97
	6 80
	11 20
	5 65
	2 50
	20 17
	21 50
	3 36
	420 00
	479 65
	315 00
	174 68
	14 00
	15 00
	550 00

3, 320 34

5, 301 55

1, 981 01

y, 1878.

	\$628 27
	570 00
	58 00
	70 37
	204 33
	1, 530 97

1875, she

6, 414 70

1, 535 85

4, 878 85

without obtaining

\$1, 530 97

4, 878 85

6, 309 82

EW LEIGHTON,

Schooner Isaac Rich.

NEWFOUNDLAND TRIP, January, 1878.

Wages.....	\$705 00
Insurance.....	400 00
Store bill.....	213 71
Salt.....	322 00
Cash.....	103 25
Bill of herring.....	120 25
Cargo for trade.....	1,030 25

Sale of herring, 918 barrels, at \$2..... 1,836 00

1,150 00

The cargo of the vessel had been contracted for at \$3 per barrel, but on account of the delay they only brought \$2 per barrel, leaving a loss of.... 918 00
 Full cargo would have been 1,200 barrels, but on account of the disturbance did not obtain but 918, leaving a deficiency 282, which would have cost \$423, were sold for \$846, a loss of..... 428 00

2,491 00

MICHAEL WALEN.

MASSACHUSETTS,

Essex:

GLOUCESTER, December 23, 1878.

Personally appeared Michael Walen, and made oath to the truth of the two foregoing statements signed by him.

Before me.

[L. S.]

AARON PARSONS,

Notary Public.

Schooner Bonanza.

The actual expenses of this vessel, including cash paid for wages on the voyage to Fortune Bay, Newfoundland, for herring, in January, 1878, were..... \$2,855 90
 The last preceding trip of this vessel to Fortune Bay netted by sales of herring..... 4,606 25
 The expenses of the trip were..... 3,465 00

Leaving a profit of..... 1,141 25

This vessel was driven off in 1878, and only obtained a partial cargo—

(1.) Actual expense, 1878..... \$2,855 90
 (2.) Profit on voyage provided the vessel did no better than on her previous voyage..... 1,141 25

Deduct value of partial cargo..... 3,997 15

Leaving a loss of..... 3,022 15

JOSEPH O. PROCTOR,

For self and other owners.

MASSACHUSETTS,

Essex, ss:

GLOUCESTER, December 21, 1878.

Personally appeared Joseph O. Proctor, and made oath to the truth of the above statement.

Before me.

[SEAL.]

AARON PARSONS,

Notary Public.

Schooner Moses Knowlton.

January, 1878.

Actual expenses of the trip to Fortune Bay for herring in the year 1877 and 1878:

Wages of crew	\$834 60
Ballast	100 00
Light-money	27 00
Store bill, provisions for crew, &c.	350 00
Lumber for stage and fitting vessel	350 00
	1,661 60

I am not the owner of this vessel, but hired her for this trip, paying for the charter	1,000 00

Actual expenses	2,661 60
Add probable profit, calculated average of previous years.	3,000 00

Loss on trip	5,661 60
Credit 180 barrels purchased of the inhabitants of Newfoundland	305 00

Spoilt by the delay	5,356 60
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JOHN LOW.

MASSACHUSETTS,

Essex, ss :

GLOUCESTER, MASS., December 23, 1878.

Personally appeared said John Low, and made oath to the truth of the foregoing statement signed by him before me.

[SEAL.]

AARON PARSONS.

Notary Public.

*Schooner Herbert M. Rogers.*N PARSONS,
Notary Public.

Actual expenses, money paid out on account of voyage to Fortune Bay, January, 1878

Customs	\$4 10
Store account	222 80
Outfit for voyage	1,278 03
Lumber for platform	6 00
Crew's wages	613 65
Captain's wages	360 00
Insurance	362 60
Wood and coal	17 50
Railway	18 50
Mainmast and setting up rigging	168 00
Use of chronometer	15 00

Product proceeds of the few barrels of herring brought back	3,066 18
	1,120 00

Actual loss of voyage	1,946 18

On the last voyage to Fortune Bay the same vessel netted	6,285 70
Less actual expenses were	2,355 53

Leaving a profit on the voyage of	3,930 17
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The trip of January, 1878, to Fortune Bay, on account of the disturbance made by the British fishermen, resulted in a loss of—

Actual expenses	\$1,946 13
Profit on the voyage provided the vessel did no better than in the previous year	3,930 17
	5,876 30

ROWE & JORDAN,
Owners and Agents.
By WILLIAM H. JORDAN,

December 21, 1878.
truth of the aboveN PARSONS,
Notary Public.

COMMONWEALTH OF MASSACHUSETTS,

Essex, ss :

GLOUCESTER, December 2, 1878.

Then personally appeared the aforesaid William H. Jordan, and made oath that the foregoing statement by him subscribed was true, before me.

ALFRED D. FOSTER.

Notary Public.

Schooner John W. Bray.

Statement of trip to Fortune Bay, Newfoundland, January, 1878.

EXPENSE.

Port charges.....	94 50
Store account.....	227 10
Outfits for voyage.....	1,013 00
Wood and coal.....	30 10
Insurance.....	350 00
Crew's wages.....	581 10
Captain's wages.....	301 00
Loss on two lines and gear.....	175 00
	2,714 20
Profit compared with previous years.....	2,400 00
	5,114 20
Proceeds from part cargo of herring brought home.....	1,525 00
Balance.....	3,589 20

JOHN F. WONSON & CO.

GLOUCESTER, December 23, 1878.

MASSACHUSETTS,

Essex, ss :

GLOUCESTER, December 23, 1878.

Personally appeared F. A. Wonson, a member of the firm of J. F. Wonson & Co. and made oath to the truth of the statement signed by him.

Before me,

[L. S.]

AARON PARSONS, N. P.

Schooner Maud B. Wetherell.

Actual expenses of trip to Newfoundland for herring in January, 1878:

Store bill.....	\$306 00
Crew's wages.....	821 00
Ballast.....	60 00
Insurance.....	475 00
Salt.....	235 00
800 barrels.....	600 00
Duties on barrel Newfoundland.....	60 00
Labor.....	45 00
Harbor dues.....	25 00
	2,617 00

TOTAL EXPENSES.

By the attack made by the inhabitants upon the seines, the captain was forced to purchase his herring for..... \$1,175 00

This vessel was fitted out for 1,200 barrels; she was able to obtain only 800 in all.

Actual expenses.....	\$2,617 00
Money paid for fish.....	1,175 00
Loss of profits on 400 barrels, at \$2.....	800 00
	4,592 00

Credit:

By proceeds of herring sold..... 2,000 00

Making total loss of..... 2,592 00

GEORGE DENNIS & CO.

MASSACHUSETTS,
Essex, ss :

GLOUCESTER, December 23, 1878.

Personally appeared George Dennis, and made oath to the truth of the above statement signed by him.

Before me,
[SEAL.]

AARON PARSONS,
Notary Public.

D.

Affidavit in reply.

GLOUCESTER, December 10, 1878.

I, Charles Dagle, master of the American schooner Lizzie and Namari, of Rockport, district of Gloucester, do, on oath, depose and say, that I know Mr. Bolt, who resided in a hut or shanty near Tickle Beach, Newfoundland; that I was there on the 6th of January, 1878, and saw the hostile acts of the British fishermen. Mr. Bolt's hut is about 150 yards back from the beach. I have been to Newfoundland fourteen successive years, and never heard of any persons claiming any rights on the beach, everybody using it in common. The three huts there are in the nature of squatter property, used only in the winter. Mr. Bolt never made any claim that I knew of; and the American seines were not used within 300 yards of Bolt's place, except where the seines were hauled on the beach by British fishermen and destroyed. The seines that were obliged to be taken up were 500 yards or more from Bolt's place. The seine of the F. A. Smith, Captain McDonald, was one-fourth of a mile away. Mr. Hickey, a resident of Fortune Bay, had his seine nearest to Bolt's house. Mr. Hickey's seine was the first seine set on the 6th of January, 1878, and the British fishermen attacked him as well as the Americans.

CHARLES DAGLE.

MASSACHUSETTS,
Essex, ss :

GLOUCESTER, December 12, 1878.

Personally appeared Charles Dagle, and made oath to the truth of the above statement.

Before me,
[SEAL.]

AARON PARSONS,
Notary Public.

GLOUCESTER, December 10, 1878.

I, William G. Poole, master of the American schooner Maud & Effie, of Gloucester, do, on oath, depose and say, that I know Mr. Bolt, and also the location of his hut at Tickle Beach, Newfoundland; that I was there on the 6th of January, 1878, and saw and know of the operations of the American seines; that the hut of Mr. Bolt is about 150 yards back from high-water mark from the beach; that I never heard or knew of any individual or body of men claiming any peculiar or particular rights on this beach, nor was any one ever hindered from fishing, except on the occasion of the 6th of January, 1878, to my knowledge; there was no seine used by the Americans at any time on the beach or within 400 yards of Mr. Bolt's hut, except the seines captured by the British fishermen, which were hauled on to the beach by them (the British fishermen) and cut to pieces and destroyed.

WILLARD G. POOLE.

ESSEX, ss :

GLOUCESTER, December 11, 1878.

Personally appeared before me the within-named Willard G. Poole, who subscribed and made oath that the within statement is true.

ADDISON CENTER,
Justice of the Peace.

I, Michael B. Murray, master of the American schooner Mary M., of Gloucester, do, on oath, depose and say that I know Matthew Bolt, at Tickle Beach, Newfoundland; and have known him to have a shanty there, and lives there winters, for the past four years. I never heard or knew of Mr. Bolt or any other person claiming any peculiar or particular rights on this beach, nor exercising any authority there, except the action of the mob on the 6th of January, 1878. Mr. Bolt's shanty is about 150 yards from high-water mark. The American seines were operated more than 400 feet and the south along the beach from Bolt's hut.

MICHAEL B. MURRAY,

EN.

ember 2, 1878.

made oath that

OSTER.

Notary Public.

1878.

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20 11
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2,400 00
5,114 30
1,565 00
3,569 00

ONSON & CO.

December 23, 1878.

W. W. W. & Co.

PARSONS, N. P.

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2,061

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DENNIS & CO.

MASSACHUSETTS,
Essex, ss :

GLOUCESTER, December 23, 1878.

Sworn to this 23d day of December, A. D. 1878, before me,

[SEAL.]

AARON PARSONS, N. P.

I, Michael B. Murray, of Gloucester, master of the American schooner *Mary M.*, do hereby, on oath, depose and say that I have invariably made good voyage, to Newfoundland, and, with the exception of 1876, have made a clear profit, over and above all expenses, of at least three thousand five hundred dollars for each voyage.

In the year 1875 I made \$5,300, clear of all expense, on my voyage to Newfoundland for herring. In 1874 I made \$5,500, clear of all expense.

In the year 1876 I had a cargo of 1,445 barrels of salted herring; was very late in the season, and cleared only \$2,060.

MICHAEL B. MURRAY.

MASSACHUSETTS,
Essex, ss :

GLOUCESTER, December 23, 1878.

Personally appeared M. B. Murray, and made oath to the truth of the above statement.

Before me.

[SEAL.]

AARON PARSONS, N. P.

GLOUCESTER, February 5, 1878.

I, Peter Smith, of Gloucester, master of the American schooner *Charles C. Warren*, of Gloucester, do on oath, depose and say that I was at Tickle Beach, Fortune Bay, Newfoundland, on the 6th of January, 1878. That I had been to Labrador, from thence to Bay of Islands, and thence to Fortune Bay, for a load of herring. On the morning of the 6th of January, 1878, herring made their appearance in close proximity to the shore in great abundance. I was provided with two seines with which to take herring, and should have loaded my vessel and others on that day. I had my seine in the boat, and was preparing to use it when the attack was made on the other American seines and I saw them destroyed, and found that the mob of two or three hundred of the British fishermen were determined to destroy every seine, and I did not dare put my seine in the water. After this time I bought of the British fishermen about 400 barrels of herring, paying one dollar and forty cents per barrel. My vessel would carry 1,300 barrels, all of which I could have taken on the 6th of January at little or no cost to myself. I was about a fortnight buying 400 barrels of herring. I consider that my loss was at least \$3,000, in addition to the expense of the voyage, by the hostile acts of the British fishermen.

PETER SMITH.

STATE OF MASSACHUSETTS,
Essex, ss :

GLOUCESTER, December 14, 1878.

Personally appeared Peter Smith, and made oath to the truth of the above statement signed by him.

Before me.

[SEAL.]

AARON PARSONS,
Notary Public.

E.

Official statement of Newfoundland herring fishery.

I, Fitz J. Babson, collector of customs for the district of Gloucester, do certify that the following-named schooners were employed in the Newfoundland herring fishery during season of 1877 and 1878:

Sch. Herbert M. Rodgers	75
Moses Adams	100
John W. Bray	100
Wildfire	100
Edward E. Webster	100
Hereward	100
Bunker Hill	100
Landseer	100
Isaac Rich	100
Ontario	100
New England	100
Frank A. Smith	100

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PARSONS, N. P.

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L. B. MURRAY.

December 23, 1878.

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PARSONS, N. P.

February 5, 1878.

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PETER SMITH.

December 14, 1878.

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PARSONS,

Notary Public.

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Sch. Wm. E. McDonald	98
Moro Castle	80
Bonanza	137
Jennie A. Stubbs	198
Lizzie & Namari	94
Crest of the Wave	71
Moses Knowlton	111
Maud & Effie	85
Fred. P. Frys	85
Mary M.	102
Maud B. Wetherell	109
Conard	75
Charles C. Warren	109
Bellerophon	86
26 vessels.	

Vessels employed during season of 1878 and 1879 in Newfoundland fisheries.

Sch. John S. McQuinn	82
Falcon	72
New England	86
Rattler	83
Wild Fire	109
Bunker	101
Isaac Ric	92
Centennial	116
8 vessels.	

Witness my hand and seal this 10th day of January, 1879.

[SEAL.]

F. J. BABSON,
Collector.

[Appendix B, No. 347.]

Mr. Pew to Mr. Evarts.

GLOUCESTER, MASS., March 7, 1878.

SIR: We herewith send to your department our claim for loss sustained by us through the destruction of the seines of the American fishing schooners Ontario and New England belonging to us.

The particulars are fully set forth in said claim and the affidavits of the masters and crews of said schooners.

We earnestly hope that the Government of the United States will take such action in the premises as will secure to American vessel-owners, their masters and crews, the right to fish in British waters, granted them by the treaties of Great Britain with the United States. It is a matter of great importance to the fishing interest of New England, and especially to the people of Gloucester. We are not safe in sending vessels to fish in British waters, and therefore the rights granted to our people by the Washington Treaty are of little value, while the rights granted by the United States to the subjects of Great Britain to bring fish to our markets free of duty is a great damage to our fisheries and of great value to the people of the British provinces.

With the fullest confidence that our application will receive due consideration,

We are, &c.,

JOHN PEW & SON.

P. S.—We also inclose you two printed copies of our petition and accompanying affidavits, thinking they may be a convenience to you.—J. P. & S.

To the honorable WILLIAM M. EVARTS,

Secretary of State:

Respectfully represent John Pew, Charles H. Pew, and John J. Pew, all of Gloucester, county of Essex, and commonwealth of Massachusetts, copartners under the firm style of John Pew & Son, that they are American citizens, and engaged in the fishing business at said Gloucester, and were and are owners and fitters of fishing vessels.

That they are the sole owners of the American fishing schooners Ontario and New England, of said Gloucester, and were such owners in the months of November, December, and January last past.

That both of said schooners were fitted for the herring fisheries in the month of November, 1877, and for voyages to Newfoundland, and provided with seines for catching herring. That said schooner Ontario, whereof Peter McAulay was master, sailed on the first day of December, 1877, from said Gloucester, and the said schooner New England, whereof John Dago was master, on the twenty-eighth day of November, 1877; that both schooners had a full supply of men and outfits for said voyage. That said schooner Ontario, when she sailed from said Gloucester on said voyage, with her outfits and seine, was worth the sum of seventy-five hundred dollars; and the said New England, with her outfits and seine, was then and there of the value of eighty-five hundred dollars. That said schooners both returned to said Gloucester from said voyage, on the seventeenth day of February, without any herring, except that the said Ontario had about fifty barrels purchased by her.

And we further represent that we are informed by the masters and crews of said schooners, and believe the same to be true, that the reason why they returned without any herring and made disastrous voyages is that they arrived at Long Harbor, Fortune Bay, Newfoundland, on or about the sixteenth day of December, 1877, and found herring scarce, and were unable to obtain any considerable quantity of herring, and that the masters and crews of said schooners waited at said Long Harbor until the sixth day of January, 1878, to catch or purchase herring, as they might be able to do; that on said sixth day of said January, "the signs for herring being good," the masters and crews of both of said schooners joined their purse seines, thereby making a double seine, which was of the value of at least fourteen hundred dollars, and making a seine of about twenty-four hundred feet long and one hundred and fifty feet deep; that the masters and crews of said schooners threw said double seine at said Long Harbor and caught and secured there in a very large quantity of herring, amounting to at least two thousand barrels of herring and more than sufficient to load both of said schooners.

That at about four o'clock of said sixth day of said January some two hundred men, who belonged about Fortune Bay and had gone ashore from English vessels in said Long Harbor, made a war-like demonstration against the masters and crews of said schooners and seized hold of said double seine, tore it in pieces, and carried it off, and thereby freed all of said herring and prevented the masters and crews of said schooners from obtaining them, and thereby destroyed all hope of their obtaining a cargo for either of said vessels. That of said two hundred men some sixty took hold of said seine and destroyed it, and the others were participating in the destruction of the seine by inciting and encouraging those who were destroying it.

That the masters and crews of said schooners were pursuing their business of catching herring at said Fortune Bay in a lawful manner, and were not in any manner or form interfering with the rights of any party or parties at said Newfoundland, and that the action of said parties in destroying said seine was a most wanton destruction of the property of said firm, and was without the least justification in law or good conscience, and was intended to be a war-like demonstration against the American vessels, their owners, masters, and crews, and to intimidate them and prevent them from prosecuting the herring fisheries in the waters of Newfoundland by catching herring, and thereby compel them to buy herring of the inhabitants of Newfoundland, if they would obtain them, at such prices as said people of Newfoundland might ask for them. That all the American vessels at said Newfoundland on said sixth day of said January were from said Gloucester and were there for herring, and among them were the schooners Moses Adams, Herbert M. Rogers, John W. Bray, F. A. Smith, Hereward, William E. McDonald, Moro Castle, Ed. F. Webster, Bonanza, Wildfire, Bunker Hill, and Isaac Rich. That said schooners Ontario and New England were, by reason of the destruction of said seine and the freeing of the herring therein, were both prevented from obtaining cargoes for said schooners.

That after the destruction of said seine, as above set forth, the said parties who had destroyed the same returned to their vessels, and on the evening thereafter, to wit, on the evening of the sixth day of said January, they made a jubilant demonstration, blowing horns, firing guns, and shouting, as if celebrating a victory, to impress upon the masters and crews of the American vessels in said harbor that they were prepared to stand by and justify what had been done, and that the Americans might expect to be treated in future in the same manner should they attempt to catch herring in Newfoundland waters.

And we further respectfully represent that in view of the treatment of the American fishermen by the British subjects at said Newfoundland, it is wholly unsafe for American vessel owners to fit vessels for and send them to Newfoundland waters to catch herring, and that it is unsafe for American fishermen to attempt to catch fish in said waters, and that the demonstration against the American fishing-vessel owners, masters, and crews is of such a character as to make it a public violation of the rights of the citizens of the United States wishing to catch herring and attempting to catch herring there. That the loss to the said firm by reason of the war-like demonstration of the people of Newfoundland herein before set forth, and the destruction of said

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seine in the voyages of said two schooners Ontario and New England, amounts to at least the sum of six or seven hundred dollars.

In verification of the facts herein set forth, we beg leave to refer to the affidavits of the masters and crews of both of said schooners Ontario and New England herewith submitted.

Wherefore, we respectfully ask that your Department will cause our said damage to be paid by the British Government, and such action to be taken as will secure to American shipowners and fishermen the rights to which they are justly and legally entitled by the laws and treaties of the United States.

And as in duty bound will ever pay.

JOHN PEW,
CHARLES H. PEW,
JOHN J. PEW.

COMMONWEALTH OF MASSACHUSETTS,
Essex County, ss :

On the fourth day of March, in the year of our Lord one thousand eight hundred and seventy-eight, before me personally appeared John Pew, Charles H. Pew, and John J. Pew, copartners, and made oath that they have read the affidavit hereto annexed, subscribed by them, and know the contents thereof, and that the same is true of their own knowledge except as to matters which are therein stated to be on their information and belief, and as to those matters they believe them to be true.

Before me.

[SEAL.]

SUMNER D. YORK,
Notary Public.

I, Peter McAulay, of Gloucester, county of Essex and Commonwealth of Massachusetts, master mariner, on oath, depose and say that on the first day of December, A. D., 1877, I was master of the fishing schooner Ontario of said Gloucester, of the burthen of ninety-one tons and twenty-nine one hundredths, and on said first day of said December I sailed on a voyage from said Gloucester to Fortune Bay, on the southwest of Newfoundland, for a cargo of herring, and back to same port of discharge in the United States; that said schooner Ontario was fully fitted for said voyage, and had on board a mate and five men, making in all seven men; that I arrived with said schooner on said voyage at Fortune Bay, Long Harbor, about the sixteenth day of said December; that I found herring very scarce, and up to the sixth day of January, A. D. 1878, had not been able to obtain, by purchase or otherwise, more than fifty barrels of herring.

That on the sixth day of said January, there being "good signs for herring," and the schooner New England, of said Gloucester, being a fishing schooner from said Gloucester, and provided with seine, which said schooner belonged to the firm of John Pew & Son, of said Gloucester, the same parties to whom the said Ontario belonged, the masters and crews of both of said schooners threw the said seine to catch herring to load both of said schooners.

That said seine, on being thrown, took a large haul of herring, amounting, at least, to two thousand barrels of herring, and more than sufficient to load both of said schooners. That said herring being fully secured in said seine, and said schooners and said seine being at said Long Harbor, this affiant saw about two hundred men on the shore at about four o'clock in the afternoon of said sixth day of said January, while the seine was in charge of the masters and crews of said schooners Ontario and New England, make an attack upon said seine in a most violent manner, and tear up and carry off the seine, and thereby let the herring out of said seine, and prevent the masters and crews of said schooners from obtaining any of said herring. That the men who made said attack upon and destroyed said seine prevented the masters and crews of said schooners from protecting said seine, and some sixty of said two hundred men took hold of said seine while all the rest of them were inciting and encouraging those who had hold of said seine and were destroying it. That the said men so destroying said seine and inciting those destroying it used threats and violence towards both the masters and crews of said schooners and fully overpowered them, so that they could not protect said seine and save the herring therein. That most of said two hundred men landed from boats in the said bay, and were men belonging in and about said Fortune Bay. That said men who made said attack upon said seine and destroyed the same had been fishing with nets during the day and with seines in the same neighborhood, and had taken quite a large quantity of herring.

And this affiant further says that both he and his crew and the master and crew of the schooner New England were pursuing their business in a peaceful and lawful manner, and were not interfering in any manner or form with the rights of any party at said Newfoundland. That the attack upon said seine by said persons from the shore of Fortune Bay was wholly without justification or excuse, and was a warlike demonstration against the American vessels there, which amounted to some fifteen in number, and were all from the said port of Gloucester, among which were the schooners F. A. Smith, Moses Adams, Hereward, William E. McDonald, Moro Castle, Ed. E. Webster, Bouanza, Wildfire, Heribert M. Rogers, Bunker Hill, Isaac Rich, and John W. Bray,

That this affiant believes that the only reason of said attack and demonstration by the said persons from the shore was to intimidate the American fishermen there and to prevent them from catching herring, so that the said parties on the shore of Newfoundland might sell herring to the vessels from the United States at a high price and keep the whole control of the herring fisheries in their hands, and wholly deprive the citizens of the United States from prosecuting said fisheries at Newfoundland or obtaining the herring there in any other manner than by purchase.

This affiant believes that it is wholly unsafe for American vessels to catch herring in the Newfoundland waters; that the people of Newfoundland are belligerent and threatening in their treatment of American fishermen, and seem determined to prevent them from prosecuting their business in Newfoundland waters in any manner which is not satisfactory to the inhabitants thereof. That this affiant, had he not been deprived of his herring in said seine, would have loaded his said schooner Ontario with herring and returned to Gloucester by about the twenty-fifth of January last past and made a successful voyage, but, by reason of the destruction of said seine and the losing of the herring therein, he was wholly prevented from getting any herring, and obliged to return to Gloucester in ballast, except fifty barrels of herring which he purchased and was unable to purchase more, making thereby a disastrous instead of a profitable voyage. And this affiant says that all he has said with reference to the schooner Ontario is also true of his personal knowledge of the said schooner New England, of which John Dago was master, both schooners arriving at Fortune Bay on the same day, and arrived from said voyage at Gloucester on the same day, and were to act together and did act together in endeavors to obtain cargoes for said schooners, and were both affected alike by the destruction of said seine and the loss of the herring in the same at the time it was destroyed, as above set forth.

And this affiant further says that on the evening of the said sixth day of said January, after the destruction of said seine, the parties who destroyed it returned to their vessels in said harbor and made a jubilant demonstration, firing guns, blowing horns, and shouting as if celebrating a victory, to impress upon the masters and crews of the American vessels at said harbor that they were prepared to stand by and justify what had been done, and that the Americans might expect to be treated in future in the same manner should they attempt to catch herring in the Newfoundland waters.

COMMONWEALTH OF MASSACHUSETTS,

Essex, ss :

GLoucester, February 21, 1878.

Subscribed and sworn to this twenty-first day of February, A. D. 1878.

Before me,
[SEAL.]

SUMNER D. YORK,
Notary Public.

We, Allen McDonald, Daniel Tucker, Peter McKinnon, Charles McNeil, and Robert McDonald, all of Gloucester, in the county of Essex, and commonwealth of Massachusetts, late mariners on board the fishing schooner Ontario, of said Gloucester, an American vessel belonging to John Pow & Son, of said Gloucester, whereof Peter McAulay was and is master, on oath, depose and say:

That we sailed from said Gloucester about the first day of December, eighteen hundred and seventy-seven, to Newfoundland, for herring, and back to a port of discharge in the United States; that we arrived at Newfoundland at a place called Long Harbor, Fortune Bay, about the sixteenth day of December, eighteen hundred and seventy-seven; that on the sixth day of January the seine belonging to the American fishing schooner New England was thrown at said Long Harbor by the master and crew of said schooner Ontario and the master and crew of said schooner New England, acting together, and a large quantity of herring were then and there secured in said seine. That the affidavit of Peter McAulay, this day taken at said Gloucester, before Sumner D. York, a notary public, relative to the destruction of said seine at Long Harbor, on said sixth day of January, by the people of Newfoundland, has been read to us, and the mode and manner of the destruction of said seine, and the conduct of the parties at the time of destroying it and afterwards, and the inability of the masters of said schooners to obtain herring at Newfoundland after the destruction of said seine, are correctly set forth in said affidavit of said McAulay.

ALLEN McDONALD.

^{his}
DANIEL + TUCKER.
mark.

PETER MCKINNON.

^{his}
ROBERT + McDONALD.
mark.

CHARLES MCNEIL.

Witness to all the signatures,
[SEAL.] SUMNER D. YORK.

COMMONWEALTH OF MASSACHUSETTS,

Essex, ss :

GLOUCESTER, February 21, 1878.

Subscribed and sworn to before me by the above-named Allen McDonald, Daniel Tucker, Peter McKinnon, Robert McDonald, and Charles McNeil.

SUMNER D. YORK,
Notary Public.

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February 21, 1878.

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COMMONWEALTH OF MASSACHUSETTS,

Essex, ss :

Subscribed and sworn to this twenty-first day of February, A. D. 1878, before me.
[SEAL.] SUMNER D. YORK.

We, Fred. Morin, Joseph Gray, Fred. Hall, Peter Forrest, Alex. D. Bushee, Edward Phelan, all of Gloucester, county of Essex, and commonwealth of Massachusetts, on oath, depose and say:

That we belong to the crew of the American schooner New England, belonging to John Pew & Son, of said Gloucester, whereof John Dago was master, on her late voyage from said Gloucester to Newfoundland, for herring. That we sailed from said Gloucester about the 28th day of November, 1877, and arrived at Long Harbor, Fortune Bay, about the sixteenth day of December, 1877. That on the sixth day of January the seine belonging to the said schooner New England was thrown at said Long Harbor by the master of said schooner and the master of the schooner Ontario, of said Gloucester, and the crews of said schooners, and a large quantity of herring secured in said seine. That the affidavit of Peter McAulay relative to the destruction of said seine at Long Harbor on said sixth day of said January by the people from Newfoundland, and the mode and manner of the destruction of said seine, and the conduct of the parties at the time of destroying it and afterwards, and the inability of the masters of said schooners to obtain herring at said Newfoundland after the destruction of said seine are correctly set forth in said affidavit of said McAulay, taken this day before Sumner D. York, a notary public, which has been read to us. And we do hereby fully confirm the statements made by him in said affidavit in all particulars except as to the day when he left said Gloucester on said voyage, which is unknown to us. The said schooner Ontario did not leave said port of Gloucester until after said schooner New England sailed on said voyage.

PETER FORREST.
ALEX. D. BUSHEE.
FRED. MORIN.
EDWARD PHELAN.
JOSEPH GRAY.
FRED. HALL.

COMMONWEALTH OF MASSACHUSETTS,
County of Essex, ss, city of Gloucester :

On this 23d day of February, A. D. 1878, personally appeared Alex. D. Bushee, Fred. Morin, Edw'd Phelan, Joseph Gray, and Fred. Hall, and were severally sworn to the truth of the foregoing statement by them subscribed before me.

[SEAL.]

CYRUS STORY,
Notary Public.

DOCUMENT No. 11.

Mr. Welsh to Mr. Evarts.

No. 347.]

LEGATION OF THE UNITED STATES,
London, August 13, 1879. (Received August 28.)

SIR: I have the honor to acknowledge the receipt of your most important dispatch No. 34 of the 1st instant, containing the statement of the claims of the owners of twenty-two fishing vessels for loss and damage arising from the conduct of certain inhabitants of Newfoundland, at Fortune Bay, in January, 1878.

As this instruction did not arrive until yesterday, and as I am to present my letter of recall to Her Majesty to-morrow, I have no time to embody its statements and arguments in a separate note to Lord Salisbury. I think, besides, that it is so full, clear, and convincing in its present shape that I should weaken its force by changing its form.

I have taken the liberty, therefore, to send a copy of it to-day to Lord Salisbury with a note, of which I inclose a transcript.

As the details of the losses contained in the printed pamphlet which accompanied your instruction appeared to me to be important, and as there was not sufficient time to copy them, I have sent the appendix to the pamphlet, and also the original account of the owners of the New England and Ontario, to his lordship for his information, with a request that he should return them to this legation at his entire convenience. I think it desirable that additional copies of these papers should be furnished to us by the Department of State.

I have to add that I have also this day sent to Lord Salisbury the statement of a claim for damages on behalf of the owners of the schooner Mist, agreeably to your instruction, No. 346, of the 1st instant.

I have, &c.

JOHN WELSH.

[Inclosure with No. 347.]

Mr. Welsh to the Marquis of Salisbury

LEGATION OF THE UNITED STATES,
London, August 13, 1879.

MY LORD: I have just received a very important dispatch from Mr. Evarts, stating the claims for damages, amounting to \$105,395.02, sustained by certain citizens of the United States, owners of twenty-two vessels, in Fortune Bay, Newfoundland, in the month of January, 1878, which claims have already formed the subjects of a previous correspondence with your lordship.

As the argument for the payment of these by Her Majesty's Government is presented by Mr. Evarts in a very full, clear, and forcible manner, I have thought it proper to submit this instruction to me in its original form to your lordship, asking for it an early and favorable consideration.

I have, &c.,

JOHN WELSH.

DOCUMENT No. 12.

Mr. F. W. Seward to Mr. Hoppin.

No. 361.]

DEPARTMENT OF STATE,
Washington, August 28, 1879.

SIR: I have to acknowledge the receipt of Mr. Welsh's No. 347 of the 13th instant, and to approve the prompt presentation of the claims of the United States fishermen at Fortune Bay, which formed the subject of my No. 347 of the 1st instant.

The additional copies of certain papers connected with the cases, which he thinks it desirable to have transmitted, will be sent as soon as practicable.

I am, &c.,

F. W. SEWARD,
Acting Secretary.

DOCUMENT No. 13.

[Telegram.]

Mr. Evarts to Mr. Hoppin.

WASHINGTON, November 20, 1879.

HOPPIN, *Chargé, London:*

(Directing him to inquire when an answer might be expected in the matter of the Fortune Bay claims.)

EVARTS,
Secretary.

DOCUMENT No. 14.

Mr. Hoppin to Mr. Evarts.

No. 111.]

LEGATION OF THE UNITED STATES,
London, November 22, 1879. (Received December 4.)

SIR: Your telegram requesting me to ask Lord Salisbury when to expect an answer in relation to the Fortune Bay claims was brought to this office at a late hour on Thursday evening. Early the next day, the 21st instant, I addressed a note to his lordship, a copy of which I inclose herewith.

I have not yet had a reply, and shall probably be obliged to close this dispatch before one arrives. Whenever it comes I shall immediately send you the substance of it by telegraph, agreeably to your instructions.

I have, &c.,

W. J. HOPPIN,

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[Inclosure with No. 111.]

Mr. Hoppin to the Marquis of Salisbury.

Immediate.]

LEGATION OF THE UNITED STATES,
London, November 21, 1879.

MY LORD: I received last night a cable dispatch from Mr. Evarts, requesting me to ask your lordship when he might expect an answer to Mr. Welsh's notes of the 13th of August last, in relation to the damages sustained by citizens of the United States in Fortune Bay in January, 1878.

As I am instructed to reply by telegraph I venture to solicit your lordship to give an early answer to Mr. Evarts's inquiry.

I have, &c.,

W. J. HOPPIN.

DOCUMENT No. 15.

Mr. Hoppin to Mr. Evarts.

No. 112.]

LEGATION OF THE UNITED STATES,
London, November 25, 1879. (Received December 6.)

SIR: Referring to my No. 111 of the 22d instant, I have the honor to acquaint you that, not having received a reply to my note of the 21st to Lord Salisbury, I went to the Foreign Office yesterday to obtain in person the information you requested. Neither his lordship nor Lord Tenterden or Sir Julian Pauncefote were there; but I saw Mr. Barrington, one of Lord Salisbury's secretaries, who said that a note was being written in answer to mine, to the effect that the claims of the Fortune Bay fishermen were under consideration, and that a reply to your instruction to Mr. Welsh on that subject would be prepared as soon as practicable. He intimated that Lord Salisbury would come to the office in the evening, and he would convey to him my request for more definite information.

Not having heard from Mr. Barrington at six o'clock, and not venturing to postpone any later my acknowledgment of your telegram, I sent you a cable message. Some time after that was dispatched I had a note from Mr. Barrington, of which I inclose a copy herewith.

You will observe that Lord Salisbury regrets the delay in answering our claims, which he ascribes to the necessity of sending to the governor of Newfoundland for a report that has only just been received, that the subject is having his best attention, but he fears some time must elapse before he can make a communication in regard to it.

I expect a more formal answer to my note, but I shall send you the substance of this cable by to-night, as the importance of the subject and the shortness of the interval before Congress shall meet, justify the additional expense.

I beg to remind you of Mr. Welsh's statement in his No. 347, that by reason of the want of time to make copies he was obliged to send to Lord Salisbury the appendix to the printed pamphlet, and also the original account of the owners of the New England and Ontario. These have not yet been returned from the Foreign Office, as we requested, and I think it is desirable that duplicates should be supplied to us from Washington in order that our records may be complete.

I have, &c.,

W. J. HOPPIN.

[Inclosure with No. 112.]

Mr. Barrington to Mr. Hoppin.

FOREIGN OFFICE, November 24, 1879.

DEAR MR. HOPPIN: Lord Salisbury desires me to express his regret that he should not yet have been able to send a reply to your government in the case of the Fortune Bay claim. It is receiving his best attention, but as it was necessary to refer to the governor of Newfoundland for a report, which has only just been received, he fears some time must elapse before he can make a communication on the subject.

I am yours, very truly,

ERIC BARRINGTON.

An official note to this effect ought to reach you without delay.

DOCUMENT No. 16.

Mr. Hoppin to Mr. Evarts.

No. 113.]

LEGATION OF THE UNITED STATES,
London, November 28, 1879. (Received December 10.)

SIR: Referring to my dispatch No. 112, of the 25th of November, I have now the honor to inclose Lord Salisbury's formal answer to my inquiry as to when a reply might be expected from him to your instruction No. 347 to Mr. Welsh in relation to the claims of the Fortune Bay fishermen. You will observe that he explains his delay in this matter by the necessity of a reference to the authorities of Newfoundland.

I have, &c.,

W. J. HOPPIN.

[Inclosure with No. 113.]

The Marquis of Salisbury to Mr. Hoppin.

FOREIGN OFFICE, November 24, 1879.

SIR: I have the honor to acknowledge the receipt of your letter marked "Immediate," of the 21st instant, informing me that you had received on the previous evening a cable dispatch from Mr. Evarts, requesting you to inquire of me when an answer might be expected to Mr. Welsh's notes of the 13th of August last in relation to the damages sustained by citizens of the United States in Fortune Bay in January, 1878, and I have to state to you in reply that some delay has arisen owing to the necessity of a reference to Newfoundland, but that a communication will be addressed to you in answer to the notes in question at as early a date as possible.

I have, &c.,

SALISBURY.

DOCUMENT No. 17.

Mr. Evarts to Mr. Hoppin.

No. 412.]

DEPARTMENT OF STATE,
Washington, January 15, 1880.

SIR: Referring to Mr. Welsh's No. 347 and your No. 112, I now inclose herewith the duplicates requested in the dispatches just named.

I am, &c.,

WM. M. EVARTS.

HOPPIN.

DOCUMENT No. 18.

Mr. Evarts to Mr. Hoppin.

[Telegram.]

WASHINGTON, *February 5, 1880.*HOPPIN, *Chargé, London:*

(Directing him to inquire at what time an answer in respect of the Fortune Bay claims might be expected, and to express the great chagrin of this government that no answer had already been made.)

EVARTS,
Secretary.

DOCUMENT No. 19.

Mr. Hoppin to Mr. Evarts.

No. 143.]

LEGATION OF THE UNITED STATES,
London, February 7, 1880. (Received February 24.)

SIR: I have the honor to acknowledge the receipt yesterday of your dispatch in cipher relating to the great delay of the British Government in answering our claim for the Fortune Bay damages. I knew that Lord Salisbury had been seriously ill for some time past at Hatfield, and I ascertained at the foreign office, where I made immediate inquiries, that his illness still continued and that he was not attending to business. I therefore made an appointment with Sir Julian Pauncefote, who is in charge of the foreign office, Lord Tenderden being absent, for an interview to-day. I have just returned from this interview.

I called his attention in the course of it to the fact that our claim was presented as early as the 13th of August; that Lord Salisbury promised on the 16th it should receive immediate attention; that his lordship assured us on the 24th of November that an answer should be sent at as early a date as possible, and that nearly two months and a half had now elapsed without our having been favored with one. I then expressed the chagrin you felt at this delay, and gave him a copy of the translation of your cipher telegram.

Sir Julian admitted the delay, and said that it arose in part from the importance of the questions involved in the discussion; that after the claim had been received it was thought advisable to consult the authorities in Newfoundland; that some time elapsed before their answer arrived, when the matter was placed in his (Sir Julian's) hands to prepare a case upon it for submission to the law officers of the crown; that these gentlemen had the case before them still, the reason for their delay being the great importance of the points involved, and also the accumulation of references in other matters which had been made to them during the recess of Parliament.

Sir Julian promised that he would communicate with them immediately and press for a report, and would send them a copy of your telegram to hasten their action. He said, also, that he should send a copy of this to Lord Salisbury, notwithstanding his physician's injunctions that his lordship should abstain from all business. Finally he declared that I might expect to receive on Monday, for communication to yourself, something more definite in relation to this matter.

I have, &c.,

W. J. HOPPIN,

DOCUMENT No. 20.

Mr. Hoppin to Mr. Evarts.

No. 147.]

LEGATION OF THE UNITED STATES,
London, February 10, 1880. (Received February 24.)

SIR: Referring to my No. 143, of the 7th instant, I have the honor to state that up to this time I have not received any further communication from the foreign office as to when we may expect an answer to our Fortune Bay claims, although, as I informed you both by that dispatch and by cable, Sir Julian Pancefote gave me to understand he should send me more definite information on that point yesterday.

I presume that his silence arises from Lord Salisbury's continued illness. It is possible a note may arrive after the closing of the bag. Whenever it comes I shall send you the substance of it by cable.

It is proper for me to state, in addition to what I wrote you on Saturday, that Sir Julian Pancefote intimated that they would probably be able to receive the opinions of the law officers of the crown very shortly, so that with the additional delay of reconsidering the matter in the foreign office, we might rely upon having a reply certainly within a month from the present time; but he preferred I should make no positive statement on this point until I should hear from him again.

I have, &c.,

W. J. HOPPIN.

DOCUMENT No. 21.

Mr. Hoppin to Mr. Evarts.

No. 150.]

LEGATION OF THE UNITED STATES,
London, February 14, 1880. (Received February 24.)

SIR: Referring to my Nos. 143 and 147, of the 7th and 10th instant, I have the honor to inclose herewith a copy of a note which I received late in the evening of the 13th instant from Sir Julian Pancefote, desiring me to convey to you the regrets of Her Majesty's Government for their unavoidable delay in answering your note in relation to the Fortune Bay claims. It will be observed that he gives the same reasons for his delay, and announces the same intention to expedite the action of the government here in this matter, which he stated to me at our interview on the 7th instant, and which I had the honor to communicate to you in the dispatches above mentioned and in my telegrams of the 11th and 13th instant.

I have, &c.,

W. J. HOPPIN.

[Inclosure with No. 150]

Sir Julian Pancefote to Mr. Hoppin.

FOREIGN OFFICE, February 12, 1880.

SIR: With reference to the telegram addressed to you by Mr. Evarts relative to the Fortune Bay question, a copy of which you communicated to me, I have the honor to request that you will convey to Mr. Evarts the regret of Her Majesty's Government at the delay which has unavoidably occurred in answering the claim of the United States Government. On receipt of the report upon the case, which had been called for from

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EVARTS,
Secretary.

STATES,
February 24.)

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J. HOPPIN,

the Government of Newfoundland, it was found necessary to refer certain points to the law officers of the crown for their opinion, and owing to the great pressure of business after the Parliamentary recess, and on the reopening of the law courts, as well as from the voluminous character of the documents submitted to them, they have been unable up to the present time to complete their examination of the case.

They will be immediately requested to expedite their report, and as early as possible after the receipt of it I shall not fail to make known to you, for communication to your government, the views of Her Majesty's Government on the question.

I have, &c.,

In the absence of Lord Salisbury :

JULIAN PAUNCEFOTE.

DOCUMENT NO. 22.

Mr. Hoppin to Mr. Evarts.

LEGATION OF THE UNITED STATES,
London (Saturday, 5 p. m), February 14, 1880.

DEAR MR. EVARTS: My attention has just been called to the passage in yesterday's Times, which I have marked with red pencil, in which a question is asked of the under foreign secretary about the Fortune Bay claims.

I have no time to inclose this in a regular dispatch.

Very respectfully, &c.,

W. J. HOPPIN.

[Inclosure with the foregoing.]

[The Times, Friday, February 13, 1880.]

HOUSE OF COMMONS, Thursday, February 12.

CANADIAN AND NEWFOUNDLAND FISHERIES.

MR. GOURLEY asked whether the claim of the United States Government for \$103,000 for damages alleged to have been done by Newfoundland fishermen in Fortune Bay to the Massachusetts fishing fleet had been amicably arranged; what measures were being adopted for the purpose of abrogating or amending clause 33 of the Treaty of Washington relative to the Canadian and Newfoundland inshore fisheries; and whether steps were being taken for the purpose of ascertaining if the proviso of the convention of 1818, which admits American fishermen to enter British North American bays or harbors for the purpose of shelter, repairing damages, and purchase of wood and water, was intended to exclude them from going inshore to traffic, transship, fish, purchase stores, mend nets, and hire seamen.

MR. BOURKE. The claim of the United States Government for damages alleged to have been done by Newfoundland fishermen in Fortune Bay is still under the consideration of Her Majesty's Government. No measures are being adopted for the purpose of abrogating or amending clause 33 of the Treaty of Washington. The extent of the fishing privileges accorded to the United States on the shores of Canada and Newfoundland is laid down in the convention of 1818 and in the Treaty of Washington of 1871. Her Majesty's Government have not at present found it necessary to make any communication to the United States Government with a view of defining more precisely the exact interpretation of the language of those treaties.

MR. GOURLEY said that on an early day he would call attention to the convention of 1818 between this country and the United States relative to fisheries.

DOCUMENT No. 23.

Mr. Evarts to Mr. Hoppin.

[Telegram.]

WASHINGTON, February 26, 1880.

HOPPIN, *Chargé, London :*

(Stating the increased chagrin with which this government learns, from his No. 147, of there being even a possibility of an additional month's delay, and directing him to urge Her Majesty's Government to avoid it if possible.)

EVARTS.

DOCUMENT No. 24.

Mr. Hoppin to Mr. Evarts.

LEGATION OF THE UNITED STATES,
London, February, 27, 1880. (Received March 13.)

SIR: I received late last evening your telegram without date, stating that you learned with increased chagrin, from my No. 147, of even a possible further delay of one month in the answer to our Fortune Bay claims, and instructing me to urge its avoidance if possible. I have, accordingly, addressed Lord Salisbury again on this subject, and herewith inclose a copy of my note to his lordship.

I have, &c.,

W. J. HOPPIN.

[Inclosure with No. 156.]

Mr. Hoppin to the Marquis of Salisbury.

LEGATION OF THE UNITED STATES,
London, February 27, 1880.

MY LORD: I have the honor to acquaint you that I received from the honorable the Secretary of State, last evening, a further telegram in relation to the delay of Her Majesty's Government in answering our claims for damages on account of the wrappings at Fortune Bay.

Your lordship will be good enough to remember that on the 7th instant, in the absence of your lordship, I had a conversation with Sir Julian Pauncefote at the foreign office on this subject, and gave him a copy of the cable dispatch I had received from Mr. Evarts the day before.

Afterwards, on the 12th instant, I received from Sir Julian a note in relation to the matter, a copy of which I sent to Mr. Evarts on the 14th, having already telegraphed the substance of it to him on the 13th instant.

During our conversation on the 7th of February, when I pressed Sir Julian Pauncefote for an approximate statement of the time within which we might expect your lordship's reply to our claims, he intimated that it would certainly be given within a month from that date, and I so informed Mr. Evarts in a dispatch of the 10th of February.

In the cable message which I have now received, Mr. Evarts states that he learns with "increased chagrin," from my dispatch to him last mentioned, "of even a possible further delay of one month," and he instructs me to "urge its avoidance if possible."

I have no time, therefore, in bringing this subject again to your lordship's attention, in expressing the disquiet which Mr. Evarts feels that an answer to these claims which were brought to the notice of Her Majesty's Government so long ago as the 13th of August last may possibly be still further delayed.

I have, &c.,

W. J. HOPPIN.

DOCUMENT No. 25.

Mr. Hoppin to Mr. Evarts.

No. 163.]

LEGATION OF THE UNITED STATES,
London, March 9, 1880. (Received March 22.)

SIR: Referring to my dispatch, No. 150, of the 14th ultimo, in relation to the delay of the British Government to reply to your note on the subject of the Fortune Bay claims, I have now the honor to inclose a copy of a note of Lord Salisbury, in which it is stated that the report of the law officers of the crown upon the case has now been received.

I have, &c.,

W. J. HOPPIN.

[Inclosure with No. 163.]

The Marquis of Salisbury to Mr. Hoppin.

FOREIGN OFFICE, March 2, 1880.

SIR: I have the honor to acknowledge the receipt of your communication of the 27th ultimo, informing me that you had on the evening of the preceding day received a further telegram from Mr. Evarts in relation to the delay of Her Majesty's Government in replying to the claim put forward by the United States Government in connection with the occurrences at Fortune Bay in January, 1878, and I have to state to you with reference thereto, that the report of the law officers of the crown upon the case has now been received, and that therefore the reply of Her Majesty's Government will be sent with the least possible delay, having regard to the question under consideration.

I have, &c.,

SALISBURY.

DOCUMENT No. 26.

Mr. Hoppin to Mr. Evarts.

No. 170.]

LEGATION OF THE UNITED STATES,
London, April 6, 1880. (Received April 19.)

SIR: I have the honor to inclose herewith the copy of a communication which I received from Lord Salisbury yesterday, in reply to Mr. Welsh's notes of the 13th of August last, in relation to the damages sustained by certain citizens of the United States, owners of two fishing vessels, in Fortune Bay, Newfoundland, in the month of January, 1878.

It will be observed that the British Government have returned an unfavorable answer to our claims.

I sent you an abstract of Lord Salisbury's letter by cable last evening.

I have, &c.,

W. J. HOPPIN.

[Inclosure 1, with No. 170.]

The Marquis of Salisbury to Mr. Hoppin.

FOREIGN OFFICE, April 3, 1880.

SIR: In the note which I had the honor to address to you on the 12th of February I explained the reason why a certain time has unavoidably elapsed, before Her Majesty's Government were in a position to reply to Mr. Welsh's notes of the 13th

UNITED STATES,
received March 22,
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W. J. HOPPIN,

OFFICE, March 2, 1878.
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W. J. HOPPIN.

OFFICE, April 3, 1878.
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August last, in which he preferred, on the part of your government, a claim for \$105,305.02, as compensation to some United States fishermen, on account of losses sustained to have been sustained by them through certain occurrences which took place at Fortune Bay, Newfoundland, on the 6th of January, 1878. The delay which has been occasioned by the necessity of instituting a very careful inquiry into the circumstances of the case, to which, in all its bearings, Her Majesty's Government are anxious to give the fullest consideration before coming to a decision. Her Majesty's Government having now completed that inquiry, so far as lies within their power, I beg leave to request you to be so good as to communicate to your government the following observations on the case.

In considering whether compensation can properly be demanded and paid in this case, regard must be had to the facts as established, and to the intent and effect of the articles of the Treaty of Washington and the convention of 1818 which are applicable to those facts.

The facts, so far as they are known to Her Majesty's Government, are disclosed by the affidavits contained in the inclosed printed paper, which, for convenience of reference, have been numbered in consecutive order. Nos. 1 and 2 were received by Her Majesty's Government from his excellency the governor of Newfoundland. Nos. 3 to 10, inclusive, were attached to the report made by Captain Sullivan, of Her Majesty's ship Sirius, who was instructed to make an inquiry into the case. These were communicated to Mr. Welsh with my note of the 7th of November, 1878. Nos. 11 to 16, inclusive, are the affidavits of United States fishermen, printed in the New York Herald of the 28th of January, 1878, and were received by Her Majesty's minister at Washington. They have not been received officially from the Government of the United States, but Her Majesty's Government see no reason to doubt their authenticity. Nos. 17 to 22 were annexed to Mr. Welsh's note of the 13th of August last.

A careful examination of the above evidence shows that on the day in question a large number of the crews of the United States fishing vessels came on shore and from the beach barred the herrings, the ends of their seines being secured to the shore. That the fishermen of the locality remonstrated against these proceedings, and, upon their remonstrance proving unavailing, removed the nets by force.

Such being the facts, the following two questions arise:

1. Have United States fishermen the right to use the strand for purposes of actual fishing?
2. Have they the right to take herrings with a seine at the season of the year in question, or to use a seine at any season of the year for the purpose of barring herrings on the coast of Newfoundland?

The answers to the above questions depend on the interpretation of the treaties. With regard to the first question, namely, the right to the strand fishery, I would observe that article 1 of the convention between Great Britain and the United States of the 20th of October, 1818, secured to citizens of the United States the right, in common with British subjects, to take fish of every kind on certain specified portions of the coast of Newfoundland, and to use the shore for the purposes of purchasing wood and obtaining water, and for no other purpose whatever.

Articles XVIII and XXXII of the Treaty of Washington superadded to the above-mentioned privileges the right for United States fishermen to take fish of every kind with certain exceptions not relevant to the present case, on all portions of the coast of that island, and permission to land for the purpose of drying their nets and curing their fish, "provided that in so doing they do not interfere with the rights of private property or with British fishermen in the peaceable use of any part of the said coast for their occupancy for the same purpose."

Thus whilst absolute freedom in the matter of fishing in territorial waters is granted, the right to use the shore for four specified purposes alone is mentioned in the treaty articles, from which United States fishermen derive their privileges, namely, to purchase wood, to obtain water, to dry nets, and cure fish.

The citizens of the United States are thus by clear implication absolutely precluded from the use of the shore in the direct act of catching fish. This view was maintained in the strongest manner before the Halifax Commission by the United States agent, and, with reference to the proper interpretation to be placed on the treaty stipulations, in the following language: "No rights to do anything upon the land are conferred on the citizens of the United States under this treaty, with the single exception of the right to dry nets and cure fish on the shores of the Magdalen Islands, if we did possess that before. No right to land for the purpose of seining from the shore; no right to the 'strand fishery,' as it has been called; no right to do anything except, as before, on our vessels, to go within the limits which had been previously for-
den.

So far as the herring trade goes, we could not if we were disposed to carry it on successfully under the provisions of the treaty, for this herring trade is substantially fishing from the shore, a strand fishing, as it is called, and we have no right any-

where conferred by this treaty to go ashore and seine herring any more than we have to establish fish-traps."

Her Majesty's Government, therefore, cannot anticipate that any difference of opinion will be found to exist between the two governments on this point.

The incident now under discussion occurred on that part of the shore of Fortunate Bay which is called Tickle Beach, Long Harbor. On this beach is situated the fishing settlement of Mark Bolt, a British fisherman, who in his evidence, taken upon oath, deposes as follows:

"The ground I occupy was granted me for life by government, and for which I have to pay a fee. There are two families on the beach; there were three in winter. Our living is dependent on our fishing off this settlement. If these large American seiners are allowed to be hauled, it forces me away from the place."

John Saunders, another British fisherman of Tickle Beach, deposed that the United States fishermen hauled their seine on the beach immediately in front of his property.

The United States fishermen, therefore, on the occasion in question, not only exceeded the limits of their treaty privileges by fishing from the shore, but they interfered with the rights of private property and with British fishermen in the peaceful use of that part of the coast in their occupancy for the same purpose," contrary to the express provisions of Articles XVIII and XXXII of the Treaty of Washington.

Further, they used seines for the purpose of in-barring herrings, and this leads me to the consideration of the second question, namely, whether United States fishermen have the right to take herrings with a seine at the season of the year in question, or to use a seine at any season of the year for the purpose of barring herrings on the coast of Newfoundland.

The in-barring of herrings is a practice most injurious, and, if continued, calculated in time to destroy the fishery; consequently it has been prohibited by statute since 1862.

In my note to Mr. Welsh, of the 7th of November, 1878, I stated "that British sovereignty, as regards these waters, is limited in its scope by the engagements of the Treaty of Washington, which cannot be modified or affected by any municipal legislation," and Her Majesty's Government fully admit that United States fishermen have the right of participation on the Newfoundland inshore fisheries, in common with British subjects, as specified in Article XVIII of that treaty. But it can not be claimed consistently with this right of participation in common with the British fishermen that the United States fishermen have any other, and still less that they have greater rights than the British fishermen had at the date of the treaty.

If, then, at the date of the signature of the Treaty of Washington, certain restrictions were, by the municipal law, imposed upon the British fishermen, the United States fishermen were, by the express terms of the treaty, equally subjected to those restrictions, and the obligation to observe in common with the British the then existing local laws and regulations, which is implied by the words "in common," attached to the United States citizens as soon as they claimed the benefit of the treaty. That such was the view entertained by the Government of the United States during the existence of the reciprocity treaty, under which United States fishermen enjoyed precisely the same rights of fishing as they do now under the Treaty of Washington, is proved conclusively by the circular issued on the 25th of March, 1856, to the collector of customs at Boston, which so thoroughly expressed the views of Her Majesty's Government on the point that I quote it here *in extenso*.

Mr. Marcy to Mr. Peaslee.

(Circular.)

"DEPARTMENT OF STATE,
"Washington, March 28, 1856."

"SIR: It is understood that there are certain acts of the British North American colonial legislatures, and also, perhaps, executive regulations intended to prevent the wanton destruction of the fish which frequent the coasts of the colonies, and injure to the fishing thereon. It is deemed reasonable and desirable that both the United States and British fishermen should pay a like respect to such laws and regulations which are designed to preserve and increase the productiveness of the fisheries of those coasts. Such being the object of these laws and regulations, the observance of them is enforced upon the citizens of the United States in the like manner as they are observed by British subjects. By granting the mutual use of the inshore fisheries, neither party has yielded its right to civic jurisdiction over a marine league along its coasts.

"Its laws are as obligatory upon the citizens or subjects of the other as upon its own. The laws of the British provinces, not in conflict with the provisions of the reciprocity treaty, would be as binding upon the citizens of the United States within that jurisdiction as upon British subjects. Should they be so framed or executed as

FISHERMEN.

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make any discrimination in favor of British fishermen, or to impair the rights secured to American fishermen by that treaty, those injuriously affected by them will appeal to this government for redress.

"In presenting complaints of this kind, should there be cause for doing so, they are requested to furnish the Department of State with a copy of the law or regulation which is alleged injuriously to affect their rights or to make an unfair discrimination between the fishermen of the respective countries, or with a statement of any supposed grievance in the execution of such law or regulation, in order that the matter may be arranged by the two governments.

"You will make this direction known to the masters of such fishing vessels as belong to your port in such manner as you may deem most advisable.

(Signed)

"W. L. MARCY.

"COLLECTOR OF THE CUSTOMS, Boston."

I have the honor to inclose a copy of an act passed by the colonial legislature of Newfoundland, on the 27th March, 1862, for the protection of the herring and salmon fisheries on the coast, and a copy of cap. 102 of the consolidated statutes of Newfoundland, passed in 1872. The first section of the act of 1862, prohibiting the taking of herrings with a seine between the 20th day of October and the 12th day of April, and, further, prohibited the use of seines at any time for the purpose of barring herrings. These regulations, which were in force at the date of the Treaty of Washington, were not abolished, but confirmed by the subsequent statutes, and are binding upon the treaty upon the citizens of the United States in common with British subjects.

The United States fishermen, therefore, in landing for the purpose of fishing at Tickle Beach, in using a seine at a prohibited time, and in barring herrings with seines from the shores exceeded their treaty privileges, and were engaged in unlawful acts.

Her Majesty's Government have no wish to insist on any illiberal construction of the language of the treaty, and would not consider it necessary to make any formal complaint on the subject of a casual infringement of the letter of its stipulations which did not involve any substantial detriment to British interests and to the fishery in general.

An excess on the part of the United States fishermen of the precise limits of the rights secured to them might proceed as much from ignorance as from wilfulness; but the present claim for compensation is based on losses resulting from a collision which was the direct consequence of such excess, and Her Majesty's Government feel bound to point to the fact that the United States fishermen were the first and real cause of the mischief, by overstepping the limits of the privileges secured to them in a manner gravely prejudicial to the rights of other fishermen.

For the reasons above stated, Her Majesty's Government are of opinion that, under the circumstances of the case as at present within their knowledge, the claim advanced by the United States fishermen for compensation on account of the losses stated to have been sustained by them on the occasion in question is one which should not be entertained.

Mr. Everts will not require to be assured that Her Majesty's Government, while unable to admit the contention of the United States Government on the present occasion, are fully sensible of the evils arising from any difference of opinion between the two governments in regard to the fishery rights of their respective subjects. They have always admitted the incompetence of the colonia' or the imperial legislature to limit by subsequent legislation the advantages secured by treaty to the subjects of another power. If it should be the opinion of the Government of the United States that any act of the colonia legislature subsequent in date to the Treaty of Washington has trench upon the rights enjoyed by the citizens of the United States in virtue of that instrument, Her Majesty's Government will consider any communication addressed to them in that view with a cordial and anxious desire to remove all just grounds of complaint.

I have, etc.,

SALISBURY.

Appendix A.—Collected affidavits of American fishermen submitted to the British Government.

Appendix B.—Statutes of Newfoundland applicable to the fisheries.

APPENDIX A.

(1.)

Deposition of Alfred Noel.

NEWFOUNDLAND, CENTRAL DISTRICT, ST. JOHN'S, to wit:

The examination of Alfred Noel, of St. John's aforesaid, master mariner, taken upon oath, and who saith:

I am master of the schooner *Nautilus* of this port, and on the 19th day of December last I was at Long Harbour, in Fortune Bay, in the *Nautilus*, which was anchored off Woody Island. I had a crew of seven men, and I was there engaged in the herring fishery. There were several American schooners; seven of them were lying off Woody Island, and two French vessels. This island forms the harbour within half a mile of the narrows of Long Harbour; and other American schooners and Newfoundland fishing craft were inside Woody Island, which is the inside part of Long Harbour. All the craft there, English and American, were hauling herrings in seines and nets, and the Americans were purchasing herring from the English. Everything went off quietly, and the greatest harmony prevailed until Sunday, the 6th day of January, when about half-past 2 o'clock in the afternoon five seines, belonging to the American schooners, were put into the water by their crews at the beach on the northeast side of Long Harbour. I know two of the captains by name, Dago and Jacobs, belonging to Gloster, United States, but do not know the names of their schooners. The whole five seines were barred full of herrings, when the English crews of the crafts belonging to Fortune Bay ordered them to take their seines up or they would take them up for them; and the Fortune Bay men, finding they would not do as they were requested, then hauled up two of the American seines, but without any damage or injury, and two were at the same time taken up by the Americans; and at the same time a seine belonging to Captain Dago was taken up by the Fortune Bay men, the herrings thrown out, and the seine was torn up and destroyed. Before this occurrence on the said Sunday, one of the American schooners had a seine barred with herrings on the beach at Long Harbour for seven days, and it was not at any time meddled with by the Fortune Bay men or any one. Some of the Fortune Bay men had nets out in the water on that Sunday, and the same had been there during the week, but none of the Newfoundland fishermen attempted to haul herrings on Sunday at any time while I was at Long Harbour. The Americans' practice had been until lately to purchase herring from the Newfoundland fishermen in Fortune Bay, but this year and last year the Americans have brought their own seines to haul herring for themselves. The American seines are 30 fathoms deep and 200 fathoms long, whilst those used by our fishermen are 12 to 13 fathoms deep and 120 fathoms long. These American seines are used for barring herring in deep water, such as the Fortune Bay Harbours, viz., Long Harbour, Bay del Nord, and Rencontre. Our fishermen never bar herrings, and herrings have never been barred in Fortune Bay, to my knowledge, until the Americans brought the large seines I have alluded to into Fortune Bay and used them there to the disadvantage of our fishermen. This mode of barring herrings in such harbours as I have mentioned is most destructive and ruinous to the herring fishery in those localities. I do not know the names of the persons who destroyed the seines; there were about eighty vessels from different harbours of Fortune Bay at Long Harbour at the time the seine was destroyed by a great lot of people. I left Long Harbour for St. John's on the 31st day of January and arrived here on the 4th instant.

ALFRED NOEL.

Sworn before me at St. John's aforesaid, this 8th day February, A. D. 1878.

(Signed)

D. H. PROWSE,
J. P. for Newfoundland.

(2.)

Deposition of John Rumsey.

CENTRAL DISTRICT, ST. JOHN'S, to wit:

The examination of John Rumsey, of St. John's, master mariner, taken upon oath, who saith:

On or about the 14th November last I sailed from St. John's to Fortune Bay for a cargo of herring. I arrived in Long Harbour, Fortune Bay, about Christmas last. I found about 200 schooners there looking for herring; twelve of the schooners were Americans; my schooner was called the *Briton*, six hands all told. I got most of my herring between Christmas and the 8th January. Most all the schooners in Long

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Harbour lay inside of Woody Island. Woody Island is about three miles from the entrance of Long Harbour. On the northern side, rather above the island, there is a fine beach about a mile long. This is the best hauling place in Long Harbour, and most all the herrings were taken there. It is only this year and last year that the American schooners have brought down very large seines for catching herring. I have been informed that some of these seines were 250 fathoms long and 35 fathoms deep. The seines which our Newfoundland fishermen use are about 120 fathoms long and from 8 to 13 fathoms deep. In the first week in January there were four or five American schooners who had the beach above mentioned barred for herring. The mode of inbarring for herring is as follows: When a place is selected, generally a smooth beach with deep water outside free from rocks, a party is sent ashore with a long line from one end of the seine; the seine-boat then goes off with the seine, makes a long sweep, and the other end of the seine is then brought into the beach also; then the crew begin to haul together on both ends of the seine with long seine lines running fore and aft up and down the beach; four or five seines thus barring herring would cover all the hauling ground on this long beach I have spoken of, and would occupy all the best ground for hauling herring in Long Harbour. On the first Sunday in January the beach was barred by four or five large American seines. On that day after dinner, a large number of people belonging to the crews of the Fortune Bay schooners then in Long Harbour went over to the beach, and I was informed there were 600 or 700 Newfoundland fishermen there. The Americans had barred the herring, and were hauling on their seines on the Sunday morning. The Newfoundland fishermen told the American captains to take up their seines or they would take them up for them. All the American seines, when taken up which were set on a Sunday except one; this one the American captain who owned it refused to take up. The Newfoundland fishermen then hauled it ashore, took the herrings out of the seine, and according as they hauled the seine out of the water they tore it up. I saw the seine the next day, Monday, on the beach, and it was completely destroyed; it was an old second-hand seine, and very rotten. I have been for thirteen or fourteen years carrying on the herring fishery in Fortune Bay, and during that time I have never known our Newfoundland fisherman to haul herrings on Sunday. If the American fishermen were permitted to bar herrings in the way that they were doing at Long Harbour Beach, all the rest of the craft would be deprived of the best place in the harbor to haul herrings; and such a mode of fishing for herrings is most injurious to the fishery, and must in time ruin the herring fishery there. The Americans, in hauling their long seines, often removed the Newfoundland fishermen's nets when they came in their way. I have known the Americans last year to have herrings barred in for a fortnight. Barring kills a great many herrings, and makes those who are barred in very poor. I have seen the bottom covered with dead herring after the seine had been barred for a week. The American schooners heave out their ballast in the channel between Woody Island and the shore, and if not prevented, will soon destroy the anchorage there.

JOHN RUMSEY, his mark.

Sworn before me at St. John's, this 9th day of February, A. D. 1878, having first been read over and explained.
(Signed)

D. H. PROWSE,
J. P. for Newfoundland.

(3.)

Deposition of John Saunders.

The examination of John Saunders, of Tickle Beach, Long Harbour, taken upon oath, and who saith:

In January last there were a great number, close on 100, schooners and boats fishing for herring, both American and Newfoundlanders. The Americans were employing the English to haul their seines for them. There were some English schooners who had seines also. One Sunday, I do not know the date, John Hickey laid out a seine, and was told by the English or Newfoundlanders to take it up, as it was Sunday, which he did. The Americans laid out their seines, assisted by the English employed by them. The Newfoundlanders told them to take them up, as it was not legal their fishing on that day, being Sunday; J. McDonald took his up. Jacobs upset his net into Farrel's seine, who was employed by him. Farrel was barring for the Americans, and was not allowed by Jacobs to haul his seine until the hard weather came. After Jacobs had upset his seine into Farrel's he took it up to shoot again, and threatened with the revolver any one who interfered. Then they told McCauley to take it up, but he didn't, so the people hauled it in and tore it up.

I don't know any man concerned in the destruction of the net that I could swear to but one, John Pitman, a servant of Samuel Fardy, who was at "Jack Fountain." There was no other reason that I know for destroying nets but for fishing on Sun-

day, and because they would not take them up when they were told. The Americans never hauled a seine before that day; they always employed the English to use their seines, and bought fish from the English. The only reason that the Americans laid their seines out that day was because there were plenty of herrings, and no Englishman would haul them, being Sunday, excepting Hickey, who had been compelled to take his seine up.

Q. Where does Philip Farrel live?—A. In Bay-de-North, and so does Thomas Farrel.

Q. Was any obstruction or hindrance placed in the way of the Americans before or after that Sunday?—A. No.

Q. Did they remain in the harbour until the close of the season; until the herrings slackened away were any Americans compelled to leave the coast after this circumstance?—A. No; there was nothing to prevent their remaining, and they remained for some days, until the weather became soft, and there were no more herrings in the bay. Most of them left, but one American schooner remained about three weeks after that, when another lot of herrings came into the bay, and he filled up and went away the next fair wind. Jim Boy was the captain's name.

Q. Do you know any American of the name of Dago?—A. Yes; he has part in this seine. The Americans hauled their seine on the beach immediately in front of my property.

Q. Do you know the names of the schooners?—A. No.

Q. Do you know the names of the owners of the seine?—A. Yes; Captain Dago and McCauley.

Q. Do you know anything the Americans did by way of revenge?—A. The Americans, in revenge for the destruction of the net, afterwards drifted their vessels all about the bay or river with their anchors hanging, and so hooked and destroyed many nets, about fifty or sixty, I should think. The name of one of these captains was Smith—but I don't know the name of his vessel—and the other was Pool. We all believe that this was done in revenge. They were pretending to be at anchor, where there was about fifty fathoms of water, but were drifting all over the bay and hooking the nets; there was no weather to cause them to drift. Our small boats were anchored off the beach. We had never any difficulty with the Americans before this, but were always on good terms with them.

(Signed)

JOHN SAUNDERS, his X mark.

Sworn before me at Tickle Beach, Long Harbour, this 13th day of June, A. D. 1838

(Signed)

GEO. L. SULLIVAN,

Captain and Senior Officer on the Coast of Newfoundland.

(4.)

Deposition of Mark Bolt.

The examination of Mark Bolt, of Tickle Beach, Long Harbour, taken upon oath, and who saith:

I am a native of Dorsetshire, England. I have been in this country twenty-one years, and have been fishing all that time. I have lived in this neighborhood fourteen or fifteen years, and at Tickle Beach since last fall. The ground I occupy (about 100 feet) was granted me for life by Government, and for which I have to pay a fee. There are two families on the beach; there were three in the winter. Our living is dependent on our fishing off this settlement. If these large American seines are allowed to be hauled it forces me away from the place.

One Sunday in January last John Hickey, Newfoundlander, came first and hove his seine out. Five Newfoundlanders came and told him to take it up, and he did not; then others came and insisted upon it, then he took it up. If he had then refused to take it up it would have been torn up.

Then Jacobs, an American, came and laid his seine out and hauled about 100 barrels of herring in the big American seine, and capsized into Tom Farrel's seine—a Newfoundlander fisherman employed by Jacobs and fishing for him.

Philip Farrel was also fishing for the Americans, being master of McCauley's seine. The Newfoundlanders then capsized Tom Farrel's seine of fish, who was only fishing for the Americans. After this Jim Macdonald, another American, threw out his seine. Then the people went and told Macdonald that he was not allowed to fish on Sunday, and he must take his seine up; and he took up his seine and carried it on board his vessel. Jacobs would not allow his seine to be touched, but drew a revolver. They went to McCauley, an American, who had laid his seine out for barring herring; this American also employed a Newfoundlander to lay his seine out. The Newfoundlander said it should not be done on a Sabbath day, and they resolved to tear up all the seines they could get hold of. They managed to seize McCauley's and tore it up. They would have torn up any they could have got at if laid out, whether English or American, because it was Sunday. The Americans do not bar fish. This was the first time

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O. L. SULLIVAN,
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I ever knew them to do so; they usually buy the fish from the Newfoundlanders, and also barter flour and pork for them, and I have never known anything to complain of against them previous to this.

Q. Did the American schooners continue to fish after the destruction of McCauley's seine?—A. Yes.

They (the Americans) continued to fish, and left about the usual time, the 10th March. I do not know any reason for the conduct towards the Americans except that they were fishing on Sunday. I do not know what became of the nets that were torn up; it was left on the beach for some days, and then taken away. I do not know who took it away; the Americans, perhaps, but I don't know.

The Americans were often set afterwards, but not on Sunday; the Americans did not leave off catching herring after this on other days. The English did not prevent the Americans hauling their seines, but the Americans usually employed the English to haul them, as their crews were not sufficient in number, and are not acquainted with the work. The American crews are employed salting and freezing the fish, while the English employed by them with the American seines are catching them. The seine torn up was being worked by an Englishman for McCauley, the American, namely, Philip Farrel.

Jacobs' seine was in the water a night and a day. I was not aware that it was illegal to haul or catch herring by or in a seine at that time of the year, nor that barring is prohibited at all seasons, nor that the seine must be shot and forthwith hauled, but have heard some reports to that effect.

The nearest magistrate is at St. Jacques, about 25 or 30 miles from this, and there is no means of communicating with him excepting by a sailing boat.

The seine that was destroyed belonged to men called Dago and McCauley, who, I believe, were each of them captains of schooners, but the names of the vessels I do not know.

(Signed)

MARK BOLT.

Sworn before me at Tickle Beach, Long Harbour, this 13th day of June, A.D. 1878.

(Signed)

GEO. L. SULLIVAN,

Captain and Senior Officer on the Coast of Newfoundland.

(5.)

Deposition of Richard Hendriken.

The examination of Richard Hendriken, of Hope Cove, Long Harbour, taken upon oath, and who saith:

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This was the first time

I have been nine years in Long Harbour. I was here in January last, when the American seine was destroyed. It was destroyed on account of barring herring on Sunday. I was watching their proceedings from the point opposite; they laid their seine out and went to haul it in because the English would not haul it in on Sunday, and the bay was full of fish. The fish would have remained. The Americans generally employ some Englishmen to work with their own crew; they don't generally lay out their own seines. Captain Dago and Samuel Jacobs would permit to hauling, and hauled once and barred them in Farrel's net. Farrel was working for him, and had been barring herrings for several days—perhaps about a fortnight—by the Americans' orders. I believe it is illegal to bar herrings; it destroys the fish, but we have no power to stop it. It is no good telling a magistrate; the Americans take no notice of them. The nearest magistrate to this place is at Harbour Briton, 25 or 30 miles off. The only thing to let people know what is right and what is wrong is to have a notice-board in each harbour, and some heavy fine imposed on law-breakers.

James Tamel is harbour-master.

I don't know if he is a special constable or not; but Mr. Enburn told me he was to see the Yankees did not heave their ballast over, and that their measures were correct, but they would not listen to him. They hove their ballast overboard, and had tubs 22 inches in depth instead of 16 inches; in these tubs they measured the fish they bought from the Newfoundlanders, and they would not alter them. The fish are sold to the Americans by the barrel. For 100 barrels it is usual to pay for 90, which is considered fair, but a flour barrel cut down to 16 inches in depth is the proper measure; they only cut them to 22 inches or more, and insist on having them filled. The vessels from St. John's and Halifax always take the proper size tubs, but the Americans constantly overreach us, and choose the most ignorant to deal with, or those who are not so sharp as themselves. They generally otherwise behave well, and we have never had any quarrel with them before, but have always been on good terms. If the natives did not see the laws carried out themselves there might as well be no laws, for

220 ALLEGED OUTRAGE UPON AMERICAN FISHERMEN.

there is often no one else to enforce it. It is the only way I know, and is pretty well understood by both foreigners and natives.

(Signed)

RICHARD HENDRIKEN, his $\times$ mark.

Sworn before me at Tickle Beach, Long Harbour, this 14th day of June, A. D. 1873.

(Signed)

GEO. L. SULLIVAN,

Captain and Senior Officer on the Coast of Newfoundland.

(6.)

Deposition of Ambrose Pope.

The examination of Ambrose Pope, of Stone Cove, Long Harbour, taken upon oath, and who saith:

I was at Tickle Beach on a Sunday in January last. I don't know the date. I saw the Newfoundlanders hauling a seine and leave it on the beach; it was torn in hauling it on shore. It was evening when I saw the seine hauled on the beach, and it was laying there when I left the beach.

I don't know if any was carried away. I don't know anything more about it. The Americans we thought had no right to haul their seines on Sunday.

(Signed)

AMBROSE POPE, his $\times$ mark.

Sworn before me at Anderson Cove, this 15th day of June, A. D. 1873.

(Signed)

GEO. L. SULLIVAN,

Captain and Senior Officer on the Coast of Newfoundland.

(7.)

Deposition of James Tharnell.

The examination of James Tharnell, of Anderson's Cove, Long Harbour, taken upon oath, and who saith:

I am a special constable for this neighborhood; I did not see anything of the alleged outrage last January, but I heard something about it; I believe some of the men named Pope were on the beach, but which I do not know.

Q. Have you formed any opinion as constable as to the cause of the dispute?—A. Mr. Snellgrove, of the customs, and myself, from what we were informed of the circumstances, were of opinion that the Americans were acting illegally in shooting their seines, but notwithstanding that, nothing would have been said to them for that had it not been on the Sabbath day. The men forbid them hauling seines on the Sabbath day, and told them to take them up or they would take them up for them, and what annoyed them so much was that the Americans drew their revolvers; probably, if it had not been for the threat of the revolvers the seines would only have been taken up, and not torn. They asked him three times to take them up before they did so themselves.

The people were not aware that it was illegal to set the seines that time of the year, and were only prompted to their act by the fact that it was Sunday. We all consider it to be the greatest loss to us for the Americans to bring those large seines to catch herring. The seines will hold 2,000 or 3,000 barrels of herring, and, if the soft weather continues, they are obliged to keep them in the seines for sometimes two or three weeks, until the frost comes, and by this means they deprive the poor fishermen of the bay of their chance of catching any with their small nets, and then, when they have secured a sufficient quantity of their own, they refuse to buy of the natives.

If the Americans had been allowed to secure all the herrings in the bay for themselves, which they could have done that day, they would have filled all their vessels, and the neighboring fishermen would have lost all chance the following week-days. The people believed that they (the Americans) were acting illegally in thus robbing them of their fish. If the natives had not defended themselves by enforcing the law, there was no one else to do it. I was sworn in as a special constable by Mr. Herbert, the magistrate of Harbour Briton, last October.

On the arrival of the Americans I showed my authority, signed by Mr. Herbert, and they laughed at it, and said it had no stamp, and they didn't, therefore, recognize it.

I told them the lawful size of a tub—sixteen gallons—and they said they required a brand on it. I have no means of branding tubs; there is no means to brand on the coast, and it is not the custom. I don't know if it is the custom at St. John's to brand them. I have cautioned the Americans about throwing ballast out inside Hoodey's Island, where it is very shallow; but they have continually done so notwithstanding up to this. There are now several shallow places there and in the cove, where the Americans have been in the habit of throwing out their ballast, and small vessels now,

is pretty well

his mark.

une, A. D. 1878.
SULLIVAN,
Newfoundland.

of twenty-eight to thirty tons, repeatedly ground on this ballast there thrown out by the Americans. I believe there was less thrown out last winter after I spoke to them about it; but I have no power, moral or otherwise, to enforce any rules, and they don't seem to care much about me.

(Signed)

JAMES THARNELL, his mark.

Sworn before me at Tickle Beach, Long Harbour, this 14th day of June, A. D. 1878.
(Signed) GEO. L. SULLIVAN,

Captain and Senior Officer on the Coast of Newfoundland.

(8.)

Deposition of George Snellgrove.

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SULLIVAN,
Newfoundland.

The examination of George Snellgrove, of St. Jacques, Fortune Bay, taken upon oath, and who saith:

I am sub-collector of customs for the district of Fortune Bay. I went to Long Harbour on the 8th January, two days after the dispute between the Americans and Newfoundland fishermen had taken place.

Captains Jacobs and Dago informed me that an American seine had been taken up by the Newfoundland fishermen on the Sunday previous and destroyed; that the seine belonged to Dago and McCanley, and that they had other seines out, but they had taken them up when they found that the other was destroyed. One of these captains said that the fishermen had threatened to take up the seine if they didn't themselves. Captain Jacobs showed me a revolver, and said that he had threatened them with it. I remonstrated with him for doing so, when he replied that I couldn't suppose that he was really going to use it; that he only did it to frighten them; he had taken care there were no charges in it. I said to him, "Do you suppose that you would have got off that beach alive if you had used it?" and he said he never intended to use it.

Captain Warren told me that on the fishermen coming to haul in the seine that Captain Dago hailed them to say that they would take the seine in themselves if they waited, and that he (Warren) said to Dago, "It is too late now; you ought to have done it when they told you first; they are too excited now."

I then communicated with the natives of the place, who related the circumstances, and gave their reasons that the Americans were fishing illegally, and would have secured the whole of the fish, which they considered part of their property, and that they would have been distressed for the winter. They told me that they had at first told them to take up their seines, and they refused; that Captain Jacobs had threatened them with a revolver, but, notwithstanding this, they had taken up one and destroyed it.

I saw Captain Jacobs several times afterwards, and in the course of conversation with him I said: "If I had been there you would not have been allowed to shoot your seine." "What!" he said, "could you prevent me?" I said "Yes; I should have seen the law carried out and taken your seine and boat, which you forfeited for breaking the law," and I told him I would take the fine as well of \$200, at which he said: "Do you think I care about paying the fine? I could pay the fine," by which I understood him to mean that the fine was not worth considering, as the quantity of fish would have more than paid for it.

Q. Was there any one in Long Harbour on the Sunday referred to who could have enforced the law and protected the interests of the fishermen?—A. No.

Q. Is it not illegal shooting seines at all at that time of the year?—A. There is an act to that effect, but it has never been carried out in Fortune Bay, nor are the natives aware of its illegality at that time of the year, nor would they have molested the Americans had it not been Sunday, and which they knew it to be not only the law, but the infallible custom to desist from fishing on that day.

Q. Has there ever been to your knowledge before quarrelsome disputes or ill-feeling between the Americans and native fishermen?—A. No, never; always on the best terms.

Q. How long did you remain in Long Harbour?—A. I remained till the 12th January.

Q. Did you observe during your stay in Long Harbour whether the three American captains remained and continued to fish or not?—A. I did, and I know that they continued to fish; they were not molested as far as I know.

Q. Was there anything to cause them to leave the harbour, or to cease fishing?—A. No, and they had not left it when I left. There were no further disputes to my knowledge afterwards.

GEO. THOS. SNELLGROVE,
Sub-Collector of Her Majesty's Customs.

Sworn before me at St. Jacques, Fortune Bay, the 17th day of June, A. D. 1878.

GEO. L. SULLIVAN,

Captain and Senior Officer on the Coast of Newfoundland.

(9.)

Deposition of Silas Fudge.

The examination of Silas Fudge, of Bellaram, Fortune Bay, taken upon oath, and who saith:

I am mate of my father's schooner. I witnessed the disturbance at Long Harbour on Sunday, the 6th January last. I am certain that it was on the 6th January it happened.

I saw the seines in the water—two of them American and one English. We told them to take them up.

John Hickey, the Englishman, took his up. McCauley, the American, who owned the other, refused to take his up. There was another seine, which I did not see, in the water, belonging to Captain Jacobs. He had his in the boat at the time. He had shot once and discharged his seine into Thomas Farrel's, who was working for him, and was going to shoot his seine out again. I saw it in the boat ready for shooting when the crowd came over. They first spoke to McDonald, and asked him if he would take his seine up, and he said, "Yes, if I am forced;" and they then went to Hickey and told him to take his up, and he took it up; then they went to McCauley and asked him to take his up, and he said he would not. They then told him that if he didn't they would take it up for him. They then went to Jacobs, and told him they would let go the herring out of the seine of Tom Farrel, who was an Englishman. Jacobs then drew a revolver, and threatened to shoot any man who touched his property. The crowd were very excited. I saw them haul McCauley's seine in and tear it up. That was the end of the row that day. Farrel had, during the previous week, secured herring in the American seine, and then had placed his own round them, and taken up the American's. This was done before Sunday. It was in this seine of Farrel's that Jacobs emptied his own seine.

Q. You knew that the American fish were in the Englishman's seine; why was Farrel's seine allowed to remain?—A. Because he had not shot it on the Sunday, but on the week-day.

Q. Are you aware that it was illegal to use seines to catch herrings that time of the year?—A. No; I don't know.

Q. Did you believe it to be lawful to use seines for herring that time of the year?—

A. Yes, I thought so, as far as I could understand. I suppose the Americans thought, with reference to the destruction of the seine, that we did it in envy of them, but it wasn't; but it was from regard to the Sabbath, on which day we never fish.

Q. How far from the beach were the American seines shot?—A. Close to the beach; the hauling lines were on the beach.

The Americans remained in the bay after the occurrence for several days; they were never molested or interfered with afterwards; they continued to fish until they left the harbour; they were not compelled to leave the harbour, but I believe they were unsuccessful on account of the bad weather and for want of frost.

SILAS FUDGE.

Sworn before me at St. Jacques, Fortune Bay, the 17th day of June, A. D. 1878.

(Signed)

GEO. L. SULLIVAN,

Captain and Senior Officer on the Coast of Newfoundland.

(10.)

Deposition of John Cluett.

The examination of John Cluett, of Belloram, Fortune Bay, taken upon oath, and who saith:

I was in Long Harbour one Sunday in January last.

Q. Did you see anything of the quarrel between the Americans and other fishermen?—A. I did.

Q. Tell me what you know of it?—A. They commenced hauling herrings on Sunday, about midday. The first American seine shot was Captain Jacobs'. There were two more American seines shot. There was an Englishman working for the Americans who had a seine moored there for several days, but it was not shot or attempted to be hauled on the Sunday.

The first seine we came to was Captain McDonald's. They asked him if he was going to take his seine up. He said, "If we are forced to take it up we will;" and we told him if he didn't take it up we would take it up for him.

The next we came to was a man belonging to Fortune Bay, called John Hickey, an Englishman, and we told him to take up the seine, and he said he would take it up, and he did. The next we came to Peter McCauley, and we told him the same as

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ILAS FUDGE.

e, A. D. 1878.

SULIVAN,
Newfoundland.

the others, and he refused to take it up. Then we went on to Captain Jacobs, and when we got to him he was in his skiff, a little off the shore. He had just hauled herring and shot them into Farrel's seine, who was working for him. They remonstrated about breaking the law and fishing on Sunday. There was an altercation between us. He said he would defend his seine if they touched it in a threatening way. I don't know what he said. There was a great crowd, and he was in an awful rage, and I heard that he drew a revolver, but I didn't see it. He then took his seine on board. Then all the seines were taken up but Farrel's and McCauley's. Farrel's seine was not touched because it was not laid on that day, and they therefore let it alone, although Jacobs's fish were in it; but McCauley's seine was taken up and destroyed, and that is all I know.

Q. Did the American captain remain in the harbour after?—A. Yes; I think about a fortnight, but perhaps more. They continued to fish and haul herring on week-days but not on Sunday again.

Q. Were they ever molested or interfered with in any way subsequently or not?—A. Not to my knowledge; they remained there as long as they chose, and there was never any more dispute. I don't know that it is illegal to haul seines that time of the year. I have heard of the law, but I have never seen it carried out; it had nothing to do with this dispute. The only cause of it was on account of its being Sabbath. I never saw herrings hauled on a Sunday before, either by American or Englishman.

The Americans, by hauling herring that day when the Englishmen could not, were robbing them of their lawful and just chance of securing their share in them, and, further, had they secured all they had barred they could have, I believe, filled every vessel of theirs in the bay. They would have probably frightened the rest away, and it would have been useless for the English to stay, for the little left for them to take they could not have sold.

The Americans would have a better chance than the English any day on account of the size of their nets, but the English would have had their fair chance the next day, and they thought they were justified, in the absence of any proper authority or power to enforce the law, to defend their rights themselves. There is no power or authority to enforce the law on all parts of the coast, and none nearer to Long Harbour than about 30 or 40 miles.

If there was not a good feeling and mutual understanding between all fishermen, whether foreigners or Englishmen, there would be no law carried out or upheld at all, but there was always prior to this a very good feeling and a mutual understanding between the Americans and ourselves, and I don't know anything to prevent the same in future. After the destruction of McCauley's seine some of the American schooners, one of which was Peter Smith's, drifted about the harbor among the fishermen's nets when blowing hard, with their anchors hanging to their bows, and destroyed several nets. I don't know if this was done out of revenge or not. I don't think it was done purposely.

(Signed)

JOHN LUETT.

Sworn before me at St. Jacques, Fortune Bay, this 17th day of June, A. D. 1878.

(Signed)

GEO. L. SULIVAN,

Captain and Senior Officer on the Coast of Newfoundland.

(11.)

Deposition of Charles Dagle.

GLOUCESTER, February 19, 1878.

I, Charles Dagle, master of the American schooner Lizzie and Namari, of Rockport, do on oath depose and say:

That I sailed from Gloucester on the 6th December, 1877, for Fortune Bay, Newfoundland, for a load of herring. The last year (1877) I had sold a seine and boat to parties in Newfoundland, and they were to supply me with herring in payment for the seine and boat. I arrived at Fortune Bay about the 19th December. I was at Long Harbour, Newfoundland, with my vessel on the 6th January. Saw the seines of the American schooners New England and Ontario destroyed by the fishermen of Newfoundland. There is a decided objection to using netted or gill-net herring for freezing purposes, as these herring die in a short time after being taken in gill-nets. When they are seined they can be kept alive on the radius of the seine and taken out alive when the weather is suitable for freezing, while the netted herring, being dead, must be salted or spoiled; consequently the seined herring are the best for our purposes, and are what the American vessels want for our market. Knowing this fact, the Newfoundland fishermen had endeavored to obstruct in every way the taking of herring

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with seines, as they use principally gill-nets; they placed their nets, which are permanently, so as to hinder the using of seines. On the 6th January, 1878, the herring had come inshore, so that they were inside the gill-nets, thus giving our people an opportunity to seine them without interfering with the gill-nets. On the Americans attempting to put their seines in the water the Newfoundland fishermen threatened to destroy them, and when our fishermen had taken their seines full of herring, the Newfoundlanders came down to the number of 200, seized and destroyed the seines, letting out the fish, and afterwards stole and carried off the remnants of the seines. On account of this violence and the obstructions placed in the way of my men operating the seine, I was unable to procure a cargo, and have returned without a herring. If I had been allowed the privilege guaranteed by the Washington Treaty, I could have loaded my vessel and all the American vessels could have loaded. The Newfoundland people are determined that the American fishermen shall not take herring on their shores. The American seines being very large and superior in every respect to the nets of the Newfoundlanders, they cannot compete with them. These seines are the mackerel seines which are used in summer for mackerel and are setting for herring. When they are plentiful we can take from 2,000 to 5,000 barrels. The seines and boats we use cost 1,200 dollars when new, and are too expensive for the generality of Newfoundland fishermen, and they would have no use for seines only during the herring season, while we can use them both summer and winter, and thus make them pay for their great cost.

My loss by these acts of violence, and being deprived of my rights under the Washington Treaty, is fully 5,000 dollars, which I claim as indemnity. The netted herring are strangled while caught by the head in the net, and the eyes turn red from suffocation. They will not keep so long as seined herring, which are free to swim inside the seine, and are dipped out alive. The netted herring will not sell in the New York market, while the seined herring preserve their bright appearance and sell rapidly.

(Signed)

CHARLES DAGLE,

Master of Schooner Lizzie and Namari.

Essex, ss:

GLOUCESTER, February 19, 1878.

Personally appeared Charles Dagle, master of schooner Lizzie and Namari, who subscribed and made oath to the foregoing statement.

Before me.

(Signed)

ADDISON CENTER,

Justice of the Peace.

(12.)

Deposition of William H. McDonald.

GLOUCESTER, February 19, 1878.

I, William H. McDonald, master of the American schooner William E. McDonald, of Gloucester, do on oath depose and say:

That I have just returned from Newfoundland, where I have been for a load of herring. I was at Long Harbour, Newfoundland, when the seines of the schooners New England and Ontario were destroyed. I had gone on shore and was on the beach at the time. The Newfoundlanders were much excited because of our use of the large seines, which for the first time were used last winter there. The Newfoundland fishermen had sunk large rocks off the beach in order to catch the seine, and tear them, and had put their gill-nets where they would obstruct the use of the seines. These means failing, as the herring were close inshore, they took to personal violence, and destroyed one seine completely, and made the others take them up and release the fish. I had a seine, but was not allowed to use it. The nets they placed in the way and kept there only for the purpose of obstructing our operations with seines, as they took no herring there, but let the nets remain till they rotted. I can fully endorse the statement of Captain Dagle in all particulars. My vessel is a first-class vessel, and with the time and expense, and with the loss of herring, I have sustained a loss of fully 5,000 dollars to myself and owners, and I claim that, under the Treaty of Washington, I have a right to the herring fisheries and claim indemnity for this severe loss.

(Signed)

WILLIAM H. McDONALD.

Essex, ss:

Personally appeared William H. McDonald and subscribed and made oath to the above statement.

Before me.

(Signed)

AARON PARSONS,

Justice of the Peace.

(13.)

Deposition of James McDonald.

GLOUCESTER, February 19, 1878.

I, James McDonald, master of the American schooner F. A. Smith, of Gloucester, do on oath depose and say:

That the said schooner was chartered by George W. Plumer and others, of Gloucester, for a voyage to Newfoundland for herring. I sailed from Gloucester on the 29th November, 1877, and arrived at Long Harbour, Newfoundland, on or about the 15th December, 1877. I carried a large purse seine, such as is used to take mackerel. The seine will take 4,000 barrels of fish. I employed Newfoundland fishermen to operate the seine. I set my seine twice, but without catching anything, as my seine was torn by rocks that had been left off the beach. On the 6th January the herring made their appearance in great numbers, and the opportunity to take a large haul was improved by my men, and we took at least 1,000 barrels, enough to load my vessel and one other. The Newfoundland fishermen came off in their boats and told me to take my seine up, or they would take it up for me, and that they would cut it up. There were about 100 men engaged in this violence, and my own crew consisting of six men I could not resist, but was obliged to take up my seine. I saw the seines of the schooners New England and Ontario destroyed, and knew that mine also would be destroyed if I did not take it up. My seine was not attached to the shore when they came off, and the attack on me was made in boats. After destroying the other seines they all made for me, and my only safety was to gather up my seine. I lost all my fish, and the Newfoundland fishermen put all the obstructions they could in the way to prevent the use of our seines after that. From my knowledge of the facts I do say that the Newfoundland fishermen are determined to prevent American fishermen from using the shore fisheries. I consider that the loss to the vessel and the charter party at not less than 5,000 dollars, and under the Treaty of Washington I have been deprived of my rights as an American citizen, and full indemnity should be allowed for the outrage. I have read the statement of Captain Dagle, and know it to be true in all its particulars. The effect of this treatment will be to destroy the American fishing for herring at Newfoundland. There are annually about 100 voyages by American vessels made for herring to Newfoundland. The Newfoundland fishermen were taking herring on the same day the outrages before stated occurred.

(Signed)

JAMES McDONALD.

ESSEX, ss :

GLOUCESTER, February 20, 1878.

Personally appeared the above-named James McDonald, master of the schooner F. A. Smith, who subscribed and made oath that the foregoing statement is true.
Before me.

(Signed)

ADDISON CENTER,

Justice of the Peace.

(14.)

Deposition of Charles H. Nute.

GLOUCESTER, February 19, 1878.

I, Charles H. Nute, master of the American schooner Edward E. Webster, of Gloucester, do on oath depose and say:

That I have just returned from Newfoundland, where I have been for a load of herring. I went for the purpose of co-operating with other American vessels in the use of their seines in taking herring. I was at Long Harbour, and saw the destruction of the seines of the American schooners New England and Ontario. I have seen the statement of Captain Dagle, of the American schooner Lizzie and Namari, and substantiate all he has stated. I have returned without a herring for the same reasons. My actual loss in time of vessel and crew, with herring I should have bought had I not been prevented by the inhabitants of Newfoundland, is fully 5,000 dollars; and, owing to being deprived of my rights under the Washington treaty, I hereby claim that amount as indemnity for the wrong done me and the owners of the vessel.

(Signed)

CHARLES H. NUTE,

Master Schooner Edward E. Webster.

ESSEX, ss :

GLOUCESTER, February 20, 1878.

Personally appeared Charles H. Nute, master of schooner Edward E. Webster, who subscribed and made oath that the foregoing statement is true.
Before me.

(Signed)

ADDISON CENTER,

Justice of the Peace.

(15.)

Deposition of David Malanson.

GLOUCESTER, February 20, 1878.

I, David Malanson, master of the American schooner *Crest of the Wave*, of Gloucester, Massachusetts, do on oath depose and say :

That I sailed from Gloucester on the 8th December, 1877, on a voyage to Newfoundland for herring. I arrived at Long Harbour, Newfoundland, on the 23d December, 1877. I was interested in a seine carried by the schooners *New England* and *Ontario*. I was at Long Harbour on the 6th January, 1878, and was on the beach when the Newfoundland fishermen destroyed the seine belong to these vessels. The herring did not strike inshore until that day, and as it is very uncertain how long they will remain inshore, it is imperative, for successful prosecution of the business, to take them when they are inshore. By means of our large purse seines we can inclose the herring and keep them alive a month, if necessary, as we need to have freezing weather when we take them out to freeze them, to keep them fresh until we get them to market. On this occasion the herring were entirely inshore of the Newfoundland gill-nets, and as the seines proved, if we did not take them then and there we should lose the season catch. The seines were set in no way interfering or injuring the gill-net fishing, and inclosed and held certainly 2,000 barrels of herring, enough to load four vessels. Over 200 men came down to the beach, seized the seine, let out the fish, pulled the seine on shore, tearing and cutting it to pieces with knives. The crews operating the seines were powerless against so many ; and after they had destroyed this seine they went for the other American seines, shouting and gesticulating, saying : "Tear up the damned American seines." All of the vessels would have been loaded with herring if the Americans could have used their seines.

My loss by this outrage is not less than 5,000 dollars, which has been taken from me despite the provisions of the Washington treaty, and which I claim as indemnity.

The Newfoundland fishermen have for years been in the habit of selling all the herring to American vessels. I have been there eight years, and I have always bought my herring, or engaged the Newfoundlanders to take them for me, paying them in cash. This has been the universal practice of American vessels. This year we carried the large mackerel seines, which we use in summer for taking mackerel. These seines will take from 2,000 to 5,000 barrels at a haul, and the herring are better taken in this way. As most of the Newfoundlanders fish with gill-nets, our manner of seining would take away from them the monopoly of the herring trade, and hence the feeling which produced the outrage on our vessels. It is apparent that they will obstruct any American fishery on their shores, and are not men who would know much about rights or privileges under a treaty. I should say that there are at least five cargoes of herring taken from Newfoundland yearly by American vessels, and as things are now it would be useless for American vessels to go there for herring unless they bought the herring from the inhabitants at whatever price they may see fit to ask. This American trade has been a great benefit to Newfoundland, and the change in the manner of taking herring will greatly reduce the amount of money paid them for herring. Only three vessels of eighteen that were there got any herring whatever. Captain Jacobs, of the *Moses Adams*, held his seine with revolvers, and, being a native of Newfoundland, was allowed to take in the herring he had taken. The feeling was very intense and bitter against the Americans. The Newfoundland fishermen were catching and taking herring with their nets and boats on the same day.

*(Signed)

DAVID MALANSON,
Master Schooner Crest of the Wave.

ESSEX, 89 :

Personally appeared before me David Malanson, and subscribed and made oath to the above statement.

(Signed)

AARON PARSONS,
Justice of the Peace.

(16)

Deposition of Edward Stapleton.

GLOUCESTER, February 21, 1878.

I, Edward Stapleton, master of the American schooner *Hereward*, of Gloucester, do, on oath, depose and say :

That I have just arrived from Newfoundland, where I have been for a load of herring. I was at Long Harbour, Newfoundland, when the Newfoundland fishermen destroyed the seines of the American schooners *New England* and *Ontario*, and saw the whole transaction. I carried a seine with me, and employed Newfoundland fishermen

ER, February 20, 1878.
t of the Wave, of Gloucester,

a voyage to Newfoundland, on the 23d December, 1877, from New England and Ontario to the beach near the New. The herring did not stay long they will remain take them when they are herring and keep them ther when we take them market. On this occasion, and as the season the season catch. The fishing, and enclosed and vessels. Over 200 men pulled the seine on shore, operating the seines were is seize they went for the : "Tear up the dammed with herring if the

h has been taken from me I claim as indemnity. The habit of selling all the and I have always bought for me, paying them vessels. This year we caught mackerel. The herring are better taken nets, our manner of selling trade, and hence the apparent that they wish who would know more at there are at least 100 can vessels, and as there for herring unless they may see fit to ask, and the change in the of money paid them for any herring whatever, and, being a native taken. The feeling was Newfoundland fishermen were the same day.

VID MALANSON,
Owner of the Wave.

scribed and made oath to
ARON PARSONS,
Justice of the Peace.

ER, February 21, 1878,
tereward, of Gloucester

been for a load of herring
foundland fishermen de
nd Ontario, and saw the
Newfoundland fishermen

to operate it for me. The first time they set it for me they put it out in a strong tide-way, and utterly destroyed it, and after that I had to depend on the other American seines. This was the understanding among the American captains, that we were to work together and load all our vessels. The setting of the seines on the 6th January did not interfere in any way with their nets or fishing. I think there is a local regulation that does not allow the Newfoundland fishermen to fish on Sundays; but the first seine (a small one) set on that day was one owned and operated by the natives, and they were picking their nets and boating their herring ashore all day. On the arrival of the American fleet the Newfoundlanders put their nets where they would obstruct our sailing, but on this day the herring were away inside of their nets, giving us the first chance and only opportunity we had to seine or get herring. Enough were taken, and could have been taken, that day to have loaded the fleet. After that day there was no opportunity to take any. Newfoundland nets were placed where they never took a fish, and placed only for the purpose of preventing our seining. My loss to vessel and owners is not less than 5,000 dollars, and I claim indemnity to that amount. This loss is owing entirely to the hostile acts of the Newfoundland fishermen.

(17.)

Deposition of Charles Dagle.

GLoucester, December 10, 1878.

I, Charles Dagle, master of the American schooner Lizzie and Namari, of Rockport, district of Gloucester, do, on oath, depose and say, that I know Mr. Bolt, who resided in a hut or shanty near Tickle Beach, Newfoundland; that I was there on the 6th January, 1878, and saw the hostile acts of the British fishermen. Mr. Bolt's hut is about 150 yards back from the beach. I have been to Newfoundland fourteen successive years, and never heard of any persons claiming any rights on the beach, everybody using it in common. The three huts there are in the nature of squatter property, used only in the winter. Mr. Bolt never made any claim that I knew of; and the American seines were not used within 300 yards of Bolt's place, except where the seines were hauled on the beach by British fishermen and destroyed. The seines that were obliged to be taken up were 500 yards or more from Bolt's place. The seine of the F. A. Smith, Captain McDonald, was one-fourth of a mile away. Mr. Hickey, a resident of Fortune Bay, had his seine nearest to Bolt's house. Mr. Hickey's seine was the first seine set on the 6th January, 1878, and the British fishermen attacked him as well as the Americans.

(Signed)

CHARLES DAGLE.

MASSACHUSETTS, ESSEX, ss :

GLoucester, December 12, 1878.

Personally appeared Charles Dagle and made oath to the truth of the above statement.

Before me.
[SEAL.]

AARON PARSONS,
Notary Public.

(18.)

Deposition of Willard G. Poole.

GLoucester, December 10, 1878.

I, Willard G. Poole, master of the American schooner Maud and Effie, of Gloucester, do on oath depose and say that I know Mr. Bolt, and also the location of his hut at Tickle Beach, Newfoundland; that I was there on the 6th January, 1878, and saw and know of the operations of the American seines; that the hut of Mr. Bolt is fully 150 yards back from high-water mark from the beach; that I never heard or knew of any individual or body of men claiming any peculiar or particular rights on this beach, nor was any one ever hindered from fishing, except on the occasion of the 6th January, to my knowledge. There was no seine used by the Americans at any time on the beach or within 400 yards of Mr. Bolt's hut, except the seines captured by the British fishermen, which were hauled on to the beach by them (the British fishermen), and cut to pieces and destroyed.

(Signed)

WILLARD G. POOLE.

ESSEX, ss :

GLoucester, December 11, 1878.

Personally appeared before me the within-named Willard G. Poole, who subscribed and made oath that the within statement is true.

(Signed)

ADDISON CENTER,
Justice of the Peace.

(19.)

Deposition of Michael B. Murray.

I, Michael B. Murray, master of the American schooner *Mary M.*, of Gloucester, do on oath depose and say that I know Matthew Bolt, at Tickle Beach, Newfoundland, have known him to have a shanty there, and lives there winters, for the past four years. I never heard or knew of Mr. Bolt, or any other person, claiming any peculiar or particular rights on this beach, nor exercising any authority there, except the action of the mob on the 6th January, 1878. Mr. Bolt's shanty is about 150 yards from high-water mark. The American seines were operated more than 400 feet and due south along the beach from Bolt's hut.

(Signed)

MICHAEL B. MURRAY.

MASSACHUSETTS,

Essex, ss :

GLOUCESTER, December 23, 1878.

Sworn to this 23d day of December, A. D. 1878.

Before me.

[L. S.]

AARON PARSONS, Notary Public.

(20.)

Deposition of Michael B. Murray.

I, Michael B. Murray, of Gloucester, master of the American schooner *Mary M.*, do hereby on oath depose and say that I have invariably made good voyages to Newfoundland, and, with the exception of 1876, have made a clear profit, over and above all expenses, of at least 3,500 dollars for each voyage.

In the year 1875 I made 5,300 dollars, clear of all expense, on my voyage to Newfoundland for herring. In 1874 I made 5,500 dollars, clear of all expense.

In the year 1876 I had a cargo of 1,445 barrels of salted herring, was very late in the season, and cleared only 2,000 dollars.

(Signed)

MICHAEL B. MURRAY.

MASSACHUSETTS,

Essex, ss :

GLOUCESTER, December 23, 1878.

Personally appeared M. B. Murray, and made oath to the truth of the above statement.

Before me.

[SEAL.]

AARON PARSONS, Notary Public.

(21.)

Deposition of Peter Smith.

GLOUCESTER, February 5, 1878.

I, Peter Smith, of Gloucester, master of the American schooner *Charles C. Warren* of Gloucester, do on oath depose and say that I was at Tickle Beach, Fortune Bay, Newfoundland, on the 6th January, 1878; that I had been to Labrador, from there to Bay of Islands, and thence to Fortune Bay for a load of herring. On the morning of the 6th January, 1878, herring made their appearance in close proximity to shore in great abundance. I was provided with two seines with which I was to ring, and should have loaded my vessel and others on that day. I had my boat, and was preparing to use it when the attack was made on the other vessels, and I saw them destroyed, and I found that the mob of 200 or 300 of the fishermen were determined to destroy every seine, and I did not dare put my seine in the water. After this time I bought of the British fishermen about 400 barrels of herring, paying 1 dol. 40 c. per barrel. My vessel would carry 1,300 barrels, all of which I could have taken on the 6th January at little or no cost to myself. I was about fortnight buying 400 barrels of herring. I consider that my loss was at least 300 dollars, in addition to the expense of the voyage, by the hostile acts of the British fishermen.

(Signed)

PETER SMITH.

STATE OF MASSACHUSETTS,

Essex, ss :

GLOUCESTER, December 14, 1878.

Personally appeared Peter Smith, and made oath to the truth of the above statement signed by him.

Before me.

[L. S.]

AARON PARSONS,
Notary Public.

(22.)

Official statement of Newfoundland herring fishery.

I, Fitz J. Babson, collector of customs for the district of Gloucester, do certify that the following-named schooners were employed in the Newfoundland herring fishery during season of 1877 and 1878:

Schooners.	Tons.
Herbert M. Rogers	78
Moses Adams	100
John W. Bray	83
Wildfire	109
Edward E. Webster	99
Hereward	90
Banker Hill	101
Landseer	99
Isaac Rich	92
Ontario	91
New England	86
Frank A. Smith	77
Wm. E. MacDonald	98
Gloria Castle	89
Bonanza	137
Jemie A. Stubbs	198
Lizzie and Namari	94
Fleet of the Wave	71
Moses Knowlton	111
Alaud and Effie	85
Edw. P. Fye	85
Mary M.	102
Manl B. Wetherell	108
Conard	75
Charles C. Warren	169
Bellerophon	86
Total	26 vessels.

Vessels employed during season of 1878 and 1879 in Newfoundland fisheries.

Schooners.	Tons.
John S. McQuinn	82
Falcon	72
New England	86
Satler	83
Wildfire	109
Banker Hill	101
Isaac Rich	92
Centennial	116
Total	8 vessels.

Witness my hand and seal this 10th day of January, A. D. 1879.

[SEAL.]

F. J. BABSON, *Collector.*

APPENDIX B.

(1.)

ANNO VICESIMO-QUINTO VICTORIÆ REGINÆ.

AR. II.—*An act for the protection of the herring and salmon fisheries on the coast of this island, and for other purposes.* [Passed, March 27, 1862.]

Whereas the breed and fry of herrings frequenting the coast of this land and the Labrador are often found to be greatly injured and destroyed by the using of seines and nets of too small size or mesh, and by other unwarrantable practices; and whereas complaints have been referred to the local government of alleged depredations committed by the fishermen frequenting these coasts upon each other: for remedy thereof.

Preamble.

PETER SMITH

ER, December 14, 1878
truth of the above

ARON PARSONS.
Notary Public

Be it therefore enacted, by the governor, legislative council, and assembly, in session convened:

Herring not to be taken in seines from 20th October until 12th April.

Proviso as to the use of nets.

Nets of 2 3/8 inch scale to be used from the 20th December until the 1st April.

Regulation as to nets with double bottom, &c.

Person shall interfere with the nets of others.

Herring not to be taken from the 20th April until the 20th October between Cape Chapeau Rouge and Point Rosey. Penalty for violation of this act.

Prohibition for using salmon on nets at certain times, and against erecting weirs, and penalty.

Manner of recovering penalties, and in default term of imprisonment.

I. That no person shall haul, catch, or take herrings in any seine, or near any part of the coast of this island, or of its dependencies on the coast of Lalador, or in any of the bays, harbours, or any other places therein, at any time between the 20th day of October and the 12th day of April in any year; and no person shall, on or near the coast of this island or of its dependencies aforesaid on the coast of Labrador, or in any of the bays, harbours, or other places therein, at any time, use a seine, or other contrivance for the catching and taking of herrings, except by way of shooting, and forthwith tucking and hauling the same: Provided that nothing herein contained shall prevent the taking of herrings by nets set in the usual and customary manner, and not used for barring or inclosing herrings in any cove, inlet, or other place.

II. No person shall, at any time between the 20th day of December and the 1st day of April in any year, haul, catch, or take any herring on or near the coast of this island or of its dependencies aforesaid on the Labrador, or in any of the bays, harbours, or any other places therein, in any net having the meshes, moles, or scales of less than two inches and three-eighths of an inch, at least, from knot to knot, or having any false or double bottom of any description; nor shall any person put any net, though of legal size of mesh, upon or behind any other net not of such size of mesh, for the purpose of catching or taking the fry of such herring passing through any single net of two inches and three-eighths of an inch mesh or scale.

III. No person shall willfully remove, destroy, or injure any lawful net or seine, the property of another, set or floating on or near the coast of this island or of its dependencies aforesaid on the Labrador, or in any of the bays, harbours, or other places therein, nor remove, let loose, or take any fish from or out of any such lawful net or seine.

IV. No person shall, at any time, between the 20th day of April and the 20th day of October, haul, catch, or take any herring or other fish for exportation within one mile of any settlement situate on that part of the coast between Cape Chapeau Rouge and Point Rosey.

V. Any person who shall violate any of the provisions of this act shall for every offense forfeit a sum not exceeding ten pounds; and, in addition, all seines, nets, and other contrivances used or employed in, about, or preparatory to the catching, hauling, taking, or in barring of any herrings, in violation of any of the provisions hereof, shall be liable to forfeiture, and the same may be seized at once by any justice, sub-collector of customs, preventive officer, or constable, on view or by virtue of a warrant issued by such justice, sub-collector, or preventive officer on oath to be administered by any of them, and detained until the trial of the offender, when they may be declared forfeited and ordered to be sold at public auction.

VI. And whereas an act was passed in the twenty-third year of the reign of Her present Majesty, entitled "An act for the protection of the salmon fishery, and for other purposes," whereby certain nets and seines were forbidden to be used, and certain weirs and other erections and contrivances were prohibited from being erected at certain times and under certain circumstances, in the said act declared:

Be it further enacted, That it shall be lawful for any justice, sub-collector, preventive officer, or constable aforesaid, on view, and for a constable or other person by virtue of a warrant to be issued as aforesaid, to seize any net or seine, and to destroy any weir or other erection or contrivance used or erected in contravention of the said recited act, and all such nets and seines shall be forfeited and disposed of in manner provided by the Vth section of this act.

VII. All forfeitures and penalties imposed by this or the said recited act shall be recovered with costs, in a summary manner, before a justice of the peace, for which purpose such justice shall have full power to summon or arrest the offender, and to compel all witnesses, either by summons or warrant, to appear before him on such trial; and upon conviction of such offender, such justice shall issue his warrant to such seines, nets, or other contrivances so illegally used, to be sold at public auction, or, where permitted under the preceding section of the act, destroyed; and in default of payment of such penalty as may be imposed, and costs, by the party convicted, such justice shall issue

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10. Distance between salmon nets.
11. Time for taking salmon.
12. Penalties.
13. Weir, &c., erected contrary to law may be destroyed.
14. Forfeitures and penalties, how recovered.
15. Appropriation of same.
16. Convictions not to be quashed for want of form.
17. Governor may appoint superintendent of fishery and fishery warden.
18. Reservation of treaty rights.

No stake, seine, weir, or other contrivance for taking salmon, except nets set or laid across, shall be set or placed in any river, stream, cove, lake, or watercourse. No net shall extend more than one-third of the distance in a straight line across, and no net shall be set only on one side of such river, stream, cove, lake, or watercourse.

7. No person shall construct any mill-dam, weir, rack, frame, train-gate, or other erection or barrier in or across any river, stream, cove, lake, or watercourse, so as to obstruct the free passage of salmon, grilse, par, trout, or other fish resorting therefor for the purpose of spawning; and all mill-dams or other erections placed on, over, or across any watercourse, river, or stream, resorted to by fish for the purpose of spawning, shall have a waste-gate opening, or slope sufficient to constitute a proper and sufficient fish way, which shall be kept in repair by the owner. No person shall permit any sawdust or mill rubbish to be cast into any such river, stream, cove, lake, or watercourse.

8. No person shall use any net for taking salmon, the mokes, meshes, or scales of which are less than four inches and a half inch.

9. No person shall buy or sell or have in his possession salmon, knowing the same to have been taken contrary to the provisions of this chapter, and every salmon so taken, bought, or sold shall be declared forfeited to the complainant by any justice.

10. No net shall be moored or set in any harbour, cove, creek, or estuary, or on or near any part of the coast of this colony, or its dependencies, for the purpose of taking salmon, nearer to any other net moored or set for a like purpose than one hundred yards for a single net, and three hundred yards for a double net or fleet of nets.

11. No salmon shall be taken before the 1st day of May or after the 10th day of September in any year: Provided, that if the time limited in this section shall be found to operate injuriously in any part of this island, the governor in council may appoint any other time or times, and such time or times shall be as binding on all persons as if specially mentioned herein.

12. Any person who shall violate any of the provisions of this chapter shall be subject to a penalty not exceeding fifty dollars, and all seines, nets, and other contrivances used contrary to the provisions of this chapter shall be forfeited, and may be seized and detained until the trial of the offender by any justice, sub-collector of customs, preventive officer, fishery warden, or constable, on view, or by virtue of a warrant issued by such justice, sub-collector, or preventive officer, upon complaint made on oath to be administered by either of them, and, upon conviction, the same may be declared forfeited and ordered to be sold at public auction.

13. Any justice, sub-collector, preventive officer, fishery warden, or constable, upon view, destroy any weir, rack, frame, train-gate, or other erection or barrier, used or erected contrary to the provisions of this chapter, or the same may be destroyed by virtue of a warrant issued by any justice, sub-collector, or preventive officer, upon complaint made on oath to be administered by either of them.

14. All forfeitures and penalties imposed by this chapter shall be recovered, with costs, in a summary manner, before any justice, for which purpose such justice may summon or arrest the offender, and compel witnesses, by summons or warrant, to appear before him; and upon conviction of the offender, such justice shall cause all seines, nets, and other contrivances illegally used, to be sold by public auction, or, when permitted, under the provisions of the preceding sections of this chapter, destroyed, and in default of the payment of any penalty imposed, and costs, such justice shall issue his warrant and cause such offender to be arrested and imprisoned for any period not exceeding twenty days.

15. All penalties and forfeitures imposed by this chapter, and the proceeds thereof shall be paid to the party informing against and prosecuting the offender to conviction.

16. No proceeding or conviction by any justice or other officer under this chapter shall be quashed or set aside for any informality, provided the same shall be substantiated in accordance with the intent and meaning of this chapter.

17. The governor in council may appoint the collector of revenue for Labrador, or other persons, to be superintendent of the fisheries on the coast of this island and its dependencies, and may also appoint fishery wardens, and prescribe their duties for the purposes of this chapter. The compensation for the services of such officers to be provided by the legislature.

18. Nothing in this chapter shall affect the rights and privileges granted by treaty to the subjects of any State or power in amity with Her Majesty.

[Inclosure 2 with No. 170.]

Mr. Hoppin to the Marquis of Salisbury.

LEGATION OF THE UNITED STATES,
London, April 6, 1880.

MY LORD: I have the honor to acknowledge the receipt of your lordship's letter of the 3d instant in reply to Mr. Welsh's communications of the 13th of August last.

allusion to the claims of United States fishermen for losses occasioned by certain occurrences at Fortune Bay, Newfoundland, in January, 1878; and I have to acquaint your lordship that I shall send a copy of your letter to the honorable the Secretary of State at Washington by the earliest post.

I have, &c.,

W. J. HOPPIN

DOCUMENT No. 27.

Mr. Ecarts to Mr. Babson.

DEPARTMENT OF STATE,
Washington, August 5, 1879.

SIR: Arrangements have been made by which the naval steamship *Kearsarge*, under the command of Commander Henry F. Pickens, will spend some weeks in cruising over the fishing grounds resorted to by our fishing fleet in the waters of the Newfoundland and the Gulf of St. Lawrence. You are desired to join that vessel at Shediack, New Brunswick, in company with Alfred D. Foster, esq., of Boston, with as little delay as possible. The vessel will be there ready to receive you, and Commander Pickens will have been advised of the duty assigned you and Mr. Foster, as set forth in the instructions given you.

The general purpose of this cruise of the *Kearsarge* is to examine the condition and conduct of our fishing interest in those waters; to observe the methods and equipage of our fishermen as used in the fisheries within three miles of the shore, and the treatment shown them in the pursuit of their industry by the local authorities and the population of the coasts to which they resort. You have been selected to accompany the *Kearsarge* in this cruise from your thorough and prolonged experience in the fishing interests of our people—from your personal acquaintance of the character and habits of the men engaged in this pursuit, and from your especial conversance with the general scope of the relations between these interests and those of the coast population of the provinces as developed by the rivalry and conflict between them, which have seemed inseparable from the common enjoyments of the fisheries.

Alfred D. Foster, esq., will accompany you as your legal adviser and to be in charge of the taking and reducing to form of such depositions or statements as you or he may think of importance for the information of the government in this important inquiry.

The consuls of the United States at the different points at which you may touch are expected to give you every aid in their power towards the objects in view, and to furnish you with any information in their possession that may be properly incorporated in your report of the situation of affairs on the coasts.

It is quite possible that some of our fishermen may wish to be advised as to the course which the government thinks them justified in taking should the local authorities assume to interfere with them in the peaceable pursuit within the three-miles line of their fishing methods and the use of their seines and fishing-tackle. This interference, if attempted, will doubtless be based upon the local legislation of the provinces regulating the fisheries on their coast within the three-miles line. In the view of this government, these local regulations are incompetent to curtail or control the participation of our fishermen, as accorded by the Treaty of Washington, in their inshore fisheries. So long as our fishermen use methods and apparatus in their judgment adapted to catching the fish

in the most efficient and most profitable manner to the industry they are pursuing, to wit, fishing from vessels manned and fitted from our ports, and seeking profit therefrom, and so long as they do not molest the provincial fishermen, pursuing their own methods in their equal right, this government regards our fishermen as within the treaty right and under no necessity of conforming, either in regard to days or seasons, or apparatus, to the prescriptions of the local regulations of the provinces.

You will, however, be careful to make our fishermen understand that they are not to resist the lawful authorities in any legal or judicial process or proceedings which may be taken against them in maintenance of these local laws. Taking care to preserve due evidence of this interruption of their rights and of the loss and damage thus occasioned them, for the vindication of their rights and the redress of their grievances, they will leave to their government the proper representation to the British Government to secure indemnity for the past and the prevention of future injuries.

I do not deem it useful to indicate to Mr. Foster or yourself more specifically the line or methods of your inquiries. As full and trustworthy an exhibition of the working of the system of the Treaty of Washington within the three-miles line as you can gather from your own observation and from the evidence which you can acquire, is desired as the result of this expedition. While on board the Kearsarge you and Mr. Foster will be observant, of course, of the system of the ship's discipline so far as it may need to affect the execution of the duty confided to you, and to the cordial co-operation of the naval authorities both you and the government can safely trust the prosperity of the service expected from you.

You will correspond only with this department, and be careful to avoid any communications that may lead to any publication of the progress or results of the cruise, except by authority of this department.

I am, &c.,

WILLIAM M. EVARTS.

DOCUMENT No. 28.

W. Everts to Sir Edward Thornton.

DEPARTMENT OF STATE,
Washington, August 5, 1879.

SIR: I have the honor to acquaint you with the purpose of this government, in view of the importance of the pending questions respecting the fisheries of Newfoundland and the Gulf of Saint Lawrence, and for the better obtaining of the latest accessible information with respect to those fisheries, to send a naval vessel of the United States to the maritime provinces and ports of the Dominion and the adjacent fishing-grounds, for the purpose of making a careful examination of the conduct of those inshore fisheries by the American fishing fleet, which, under the Treaty of Washington, may visit those waters, and also of the treatment which our fishermen and their industry receive at the hands of the local authorities and population.

The United States steamer Kearsarge, under the charge of Commander Henry F. Pickens, U. S. N., has been detailed for the assigned duty, and is now in the Gulf, with orders to await at Shediac, New Brunswick, the

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arrival of the agent, who has been directed to embark at that place. This agent is instructed to make inquiry and report as to the operation of the treaty stipulations and local laws, and the general condition of affairs in that locality, so far as the fishing interests of citizens of the United States are concerned, with a view to a better understanding of the questions involved, and the adjustment of points of difference between the two governments, if practicable.

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WM. M. EVARTS.

DOCUMENT No. 29.

Messrs. Babson and Foster to Mr. Evarts.

BOSTON, September 29, 1879. (Received October 2.)

SIR: In accordance with the instructions received by us from the Department of State, under date of 5th August, 1879, desiring us to join the United States steamer Kearsarge for the purpose of examining the condition and conduct of the United States fishing interests in the waters of the British North American Provinces, and to "observe the methods and equipage of our fishermen as used in the fisheries within three miles of the shore, and the treatment shown them in the pursuit of their industry by the local authorities and the population of the coasts to which they resort," we have the honor to report that on August 10 we met the Kearsarge at Shediac, New Brunswick, and proceeded immediately to Charlottetown, Prince Edward Island.

This island, from its situation in the Gulf of Saint Lawrence, is the most convenient point of observation for examining the fisheries pursued by the American vessels in these waters.

The principal fishery followed by the American fisherman in the waters of the Gulf of Saint Lawrence is the mackerel fishery. These fish are found along the whole coast of North America north of Cape Hatteras, appearing near the New England coast in May, and in the Gulf of Saint Lawrence early in June.

There is a great diversity of opinion among scientific observers in regard to the habits of the mackerel, whether they spend the winter in the Gulf and near the coast where they appear in the summer, or whether they winter in the South Atlantic and gradually come north along the coast as the water becomes warmer in the spring, arriving in the Gulf in the early summer.

Whatever the true theory may be, it is certain that the American fisherman finds the mackerel in the spring in the South, and follows them along the coast of the United States until they finally reach the Gulf.

Previously to the Reciprocity Treaty of 1854 the mackerel fishery was almost wholly in the hands of the Americans, the provincial fishermen confining themselves entirely to the cod fishery; this treaty, by opening the markets of the United States to Canadian fish, stimulated this industry, until now Canadian fishermen engage in this fishery on all the coasts of the maritime provinces.

The methods of taking mackerel in use by the Canadian and American fishermen differ widely. The Canadians fish in small boats, going out a short distance only from the shore, returning to their homes each night, and using hand-lines alone. In Prince Edward Island there were

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Professor Hind, in his confidential report to the Canadian Government upon the effect of the Washington Treaty on Canadian fisheries, speaking of the difference in the modes of fishing used by the Canadians and Americans, says:

Mackerel catching is a special industry, and requires sea-going vessels. The boat equipment so common throughout British American waters is wholly unsuited to the pursuit of the mackerel so largely carried on by United States fishermen. Immense schools of mackerel are frequently left unmolested in the Gulf and on the coast of Newfoundland in consequence of the fishermen being unprovided with suitable vessels and fishing gear.

The American fishermen carry on the mackerel fishery in large vessels of from 50 to 150 tons burden. These vessels are sailed on a mutual system of division of profits, the owners providing the vessels and outfits, and the crew their time and labor for the trip; the proceeds of the voyage are divided equally, one-half to the owners and the other half to the crew. The average value of one of these vessels is \$3,000, the seine and seine-boat \$1,000, and the cost of the outfit about \$600; the length of time employed in a trip to the Gulf is usually about twelve weeks.

The mode of conducting the mackerel fishery on the part of the Americans, has, during the past few years, been undergoing great change and improvement. Formerly, the way of taking mackerel was by hand-lines; bait cut fine was thrown from the vessel into the water for the purpose of attracting the mackerel to the surface, and they were then taken by hand-lines.

As mackerel are often found in immense bodies or schools, the opportunity to take them in large quantities led to the invention of the purse or deep-water seine, which has been, for the last fifteen years, the usual mode of taking mackerel by the Americans, and is known as the American method. This method was in full operation long before the adoption of the Washington Treaty, and was as much a part of the business as the use of the vessel, and when American fishermen were allowed to use the Canadian inshore waters, it was well known and understood that they would use all their improved appliances for taking mackerel or any other fish. These large purse seines are fifteen hundred feet long and one hundred and fifty deep, and can be graduated in size and used in deep as well as shoal water.

Nearly all the American mackerel vessels are now equipped with purse seines, and by their use the time employed in taking a trip of mackerel has been very much shortened, for with a seine, when mackerel are plenty, a full fare can sometimes be obtained in a few days, while by the hand line it requires weeks and sometimes months to procure a trip.

Mackerel are a migratory fish, and their capture is a matter of much uncertainty; they appear and disappear in large bodies, and neither the time nor place where they can be taken can be determined beforehand with any accuracy. The only resource of the fisherman is to be prepared with the most expeditious means of taking them whenever the opportunity occurs.

The quality and value of mackerel depend upon their size and fatness. They are quoted in the market as numbers *one, two, three, and four*, according to the brand placed upon the barrel by the inspector. Small and poor mackerel are nearly worthless, while fine, large, fat mackerel, such as are taken off Block Island, near the coast of New England, are considered a great luxury and will sell for \$30 a barrel.

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The size, quality, and number of mackerel in the Gulf varies exceedingly in different years, sometimes being a mixed quality of large and small, and at other seasons being very poor and of little value.

During the present season the mackerel taken in the Gulf have been smaller and poorer than ever before, and will hardly pay even the Canadians themselves for taking them. At Prince Edward Island mackerel can be bought for about \$1 a barrel unpacked, while packed, salted, and delivered in Boston, they can not be sold for more than \$3, and the dealers there have refused to advance more than \$2 upon the mackerel consigned to them. Indeed, the managers of some of the largest fishing establishments upon the island have this summer given up the mackerel fishery and turned their attention entirely to catching cod for the West Indies market, considering that after paying the expense of packing and transporting the mackerel there was no margin left for any profit.

The number of American vessels in the Gulf varies very much each year; there have been seasons previous to the Treaty of Washington when as many as five hundred vessels were in the Gulf at one time, but since the treaty has been in operation the number has greatly diminished.

By the official record kept by the collector of customs at Port Mulgrave in the Gut of Canso, there appear to have been in the Gulf in 1873, 254 vessels; 1874, 164 vessels.

This record for the years 1875 and 1876 was demanded by the counsel of the United States at the Halifax Commission, but was refused by the British counsel, although it was admitted that the records were in their possession. The evidence produced by the United States shows that during those years there were not more than 100 vessels in the Gulf.

There were in 1877, 60 vessels; 1878, 273 vessels; 1879, 44 vessels.

Of the vessels in the Gulf in 1879, 24 are reported as having obtained 7,045 barrels, an average of 293 barrels each, which would make for the whole fleet 13,905 barrels taken by American vessels in the Gulf this year. If one-half of these fish were caught within three miles of the shore, which is a very large estimate, the value of the Canadian inshore mackerel fishery to the United States in 1879 was only \$6,850—this is calculating the value of the fish at the price for which it can be purchased unpacked in Prince Edward Island, and making no allowance for the expense of catching the mackerel.

In 1878 more American vessels went to the Gulf than in any year since the treaty has been in operation. Early in the season the fishing was poor upon the United States coast, and many vessels went to the Gulf in hope that they would find the mackerel there, but most of them returned at once and did much better on the American shore.

The whole American catch in the Gulf in 1878 was only 61,923 barrels, while 134,545 barrels were taken on our own coast. Every vessel engaged in the Gulf mackerel fishery during the last two years has lost money.

We inclose a list of the United States mackerel fishing vessels in the Gulf of Saint Lawrence during the present summer, and the number of barrels taken by each vessel, as reported at Port Mulgrave, in the Gut of Canso, September 1 (inclosure No. 1).

The reports of the Canadian department of marine and fisheries for several years have contained complaints from different parts of the coast about the poorness of the mackerel fishery; the usual reason given being that the use of purse seines by the Americans broke up the schools of mackerel, and the casting overboard of the small fish, which are sometimes killed by the seines, prevented the mackerel from taking the bait,

The fishery overseer from Prince County, Prince Edward Island, speaking of the decrease in value of the fisheries, says:

This falling off is principally in the mackerel fishery. Fishing was never more vigorously prosecuted than last season, 614 boats and 2,086 men being engaged in this industry; but the fishermen state that owing to so many vessels fishing with seines and throwing overboard large quantities of dead fish the mackerel will not take the bait (Report Department Marine and Fisheries, 1878, p. 283).

Similar complaints appear in the reports from the other maritime provinces, and petitions have been presented to the department urging that purse seines should be prohibited.

In the report for 1877, page 53, Mr. Whiteher, the commissioner of fisheries, says:

The modes of fishing most objectionable amongst the fishermen, and not provided against by our fishery laws, are purse seines and trawls. Their use has been petitioned against from several sea-coast districts. It is not desirable to interfere with either until further inquiries and more particular observations can be made.

Although the Canadian commissioner of fisheries in 1877 was of the opinion that the use of purse seines was not provided against by the Canadian fishery laws, yet on June 6, 1879, the following notice was issued from the Canadian department of marine and fisheries at Ottawa, and signed by Mr. Whiteher:

CANADIAN INSHORE FISHERIES.—DEPARTMENT OF MARINE AND FISHERIES, FISHERIES BRANCH.

OTTAWA, June 6, 1879.

Public notice, and particularly the attention of deep-sea and inshore fishermen, is directed to the following provisions of the statute, 31 Vic., cap. 60, known as the fishery act, passed on the 22d May, 1868.

1. Section 14 prohibits the throwing overboard or leaving of dead or decaying fish, or remains of offals of fish, or other marine animals, within any water where fishing is carried on, or upon any fishing bank; also forbids doing the same in any net or other fishing apparatus.

2. Section 14, subsection 2, provides that dead or decaying fish, or any other deleterious substance, shall not be drawn into, or allowed to pass into, or be left or remain in any water frequented by any kinds of fish mentioned in the fishery laws.

3. Section 13, subsection 7.—Bag-nets and trap-nets and fish-pounds are prohibited, excepting under special licenses.

Besides the fines imposed by said statute, any offender against the fishery laws is liable to the forfeiture of the nets, materials, implements, or appliances used in connection with the offense.

Fishery officers may seize upon their own view, or on complaint, any fishing gear subject to confiscation, and fine offenders forthwith.

British and foreign fishermen alike are required to conform to the Canadian fishery laws.

It having been established in evidence that certain kinds of nets used for mackerel and other fish are fished in contravention of the fishery laws, by destroying quantities of small fish, besides mature fishes which are thrown away dead or dying, or are left to decay on the fishing grounds or within the inshore waters, the fishery officers are instructed to strictly enforce the fishery laws passed to prevent such illegal and injurious practices.

They are also instructed that British subjects, when fishing in British waters, are bound to conform in every respect to the Canadian fishery laws, and that foreigners fishing within three miles of the coasts of Canada, under treaties, in common with British subjects, are required to do so in conformity with the fishery laws which govern the operations of British fishermen.

By order:

W. F. WHITCHER,
Commissioner of Fisheries.

This circular is an attempt to place a forced and unreasonable construction upon certain sections of the Canadian fishery act, statute 31 Vic., cap. 60, and to apply this to American fishermen fishing in Canadian waters under the Treaty of Washington, in order to prevent the

use of purse seines. The full text of the sections referred to is as follows:

XXXI Victoria, Cap. 60.

SEC. 14. Whoever throws overboard ballast, coal, ashes, stones, or other prejudicial or deleterious substances, in any river, harbor, or roadstead, or any water where fishing is carried on, or throws overboard or lets fall upon any fishing bank or ground, or leaves, or deposits, or causes to be thrown, left, or deposited upon the shore, beach, or bank of any water, or upon the beach between high and low water mark, inside of any tidal estuary, or within two hundred yards of the mouth of any salmon river, remains or offals of fish or of marine animals, or leaves decayed or decaying fish in any net or fishing apparatus, shall incur for any such offense a fine not exceeding one hundred dollars, or imprisonment for not more than two months, and every person so doing, whether master or servant, and the master or owner of any vessel or boat from which such ballast, offals, or other prejudicial substance are thrown, shall severally become liable for each offense; provided always, that it shall be lawful to bury such remains or offals ashore, beyond the mouths of rivers, for carrying on deep-sea fisheries, to drop the same into perforated boxes or inclosures built upon the beach or under stage-heads in such manner as to prevent the same from being floated or drifted into the streams, or to dispose of them in such other manner as may be prescribed by any fishery officer.

2. Lime, chemical substances, or drugs, poisonous matter (liquid or solid), dead or decaying fish, or any other deleterious substance, shall not be drawn into, or allowed to pass into, be left or remain in any water frequented by any of the kinds of fish mentioned in this act; and saw-dust or mill-rubbish shall not be drifted or thrown into any stream frequented by fish, under a penalty not exceeding one hundred dollars; provided always, that the minister shall have power to exempt from the operation of this subsection, wholly or from any portion of the same, any stream or streams in which he considers that its enforcement is not requisite for the public interest.

SEC. 13 (7). Bag-nets and trap-nets and fish-ponds are prohibited, except under special licenses for capturing deep-sea fishes other than salmon. (Fishing acts of Canada, inclosure No. 11.)

After citing the foregoing sections, Mr. Whiteher lays down his construction of the fishery act in the instructions to the fishery officers.

It having been established in evidence that certain kinds of nets used for mackerel and other fish are fished in contravention of the fishery laws, by destroying quantities of small fish, besides mature fishes which are thrown away dead and dying, or are left to decay on the fishing grounds or within the inshore waters, the fishery officers are instructed to strictly enforce the fishery laws passed to prevent said illegal practices.

Among the many claims brought forward on behalf of the British Government before the Halifax commission as reasons why a large award should be made by the commissioners, the deleterious effect upon the Canadian inshore fisheries that would be caused by the use of purse seines by the Americans in the gulf was insisted upon. Evidence was brought forward attempting to show that seining at times destroyed large numbers of small fish, unfit for food, and these being thrown overboard were eaten by the mackerel, who thus gorged with food would not take the bait, or attracted predaceous fish which drove the mackerel away.

All the complaints now made by the fishermen against the use of purse seines were made before the Halifax commission. The size, shape, and mode of using these seines was shown by the evidence, and their alleged destructiveness, and the evil effect they would have upon the Canadian fisheries were pressed upon the commissioners by the British counsel in their final arguments, and must be presumed to have been taken into account by the commissioners in making their award.

All modes of fishing by which large bodies of fish are inclosed at once of necessity must take immature fish, but whether this waste has any effect upon the whole supply of fish in the sea is very doubtful.

In 1863 a commission was appointed by the British Government to examine into the sea fisheries of the United Kingdom, and to ascertain whether any of the methods of catching fish in use in such fisheries

involves a wasteful destruction of fish or spawn, and, if so, whether it is probable that any legislative restriction upon such method of fishing would result in an increase of the supply of fish."

The commissioners, James Caird, Thomas H. Huxley, and George S. Lefevre, after a long and elaborate examination into the methods of fishing and the apparatus in use by the fishermen, in which the same complaints now made by the Canadians against purse seines were made by the English fishermen against the use of seines and beam-trawls, recommended to the British Government that all acts of Parliament which professed to regulate the modes of fishing pursued in the open sea or inshore waters be repealed. The commissioners state they do not consider that there is any evidence that operations of man have any great effect upon the supply of fish in the sea; and that whatever effect is produced by waste or extravagance in the capture of fish is itself so trifling in proportion to the natural wear and tear of the fish that it may be thrown entirely out of account. (Sea Fisheries Commission Report, 1866.)

The inspectors of salmon fisheries, in their report to the colonial office and inclosed in the dispatch from Sir M. Hicks Beach to the governor of Newfoundland (inclosures numbers 8 and 9), coincide with this opinion, and say further that no regulations which any single nation can make in regard to the fisheries are of any great value, and that any "regulations, therefore, applicable to the territorial waters would have the effect of driving the fishery further from the shore; they would have no effect whatever."

No attempt has been made to enforce the laws against seining during the present season, but if next year mackerel should be more plenty in the gulf, and American fishermen should resort there in greater numbers, any attempted enforcement would be productive of much trouble, and would practically prevent them from obtaining any benefit from the treaty in the inshore waters of the Dominion, by forcing them to fish entirely outside of the Canadian jurisdiction.

As by section 16 of the fishery act, and by the instructions of the commissioner of fisheries, the fishery officers may seize "upon their own view or on complaint" all nets and appliances used in contravention of this act, "and fine offenders forthwith," one-half of the fine going to the informer, American fishermen even when using their seines outside the three-mile limit will be liable to incessant trouble and interruption.

On Friday, August 15, we left Prince Edward Island for the Magdalen Islands, arriving there the evening of the 16th. Under the convention of 1818 the American fishermen have the right to fish on the shores of the Magdalen Islands without any restriction as to distance. Situated in the center of the Gulf of Saint Lawrence, these islands were formerly the resort of large bodies of mackerel, which remained there all summer; and until the last few years, American vessels found around these islands the best fishing places in the gulf.

Mr. Fox, the collector and fishery overseer of the Magdalen Islands, testified before the Halifax commission that in 1861 he counted 500 American schooners engaged in fishing near the islands. When we saw him there, this summer, he informed us he had not seen a single United States vessel. In 1877 about thirty vessels fished near the islands. In 1878 only 20, and none of these vessels did well. This year the mackerel catch at the islands has been a failure; very few have been taken by the inhabitants, and they were all small, not exceeding 18 inches in length.

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Formerly a large herring business was carried on here, almost exclu-
sively by Americans. This, although called a fishery, was really merely
a commercial transaction, the vessels bringing seines and hiring the
native fishermen to catch the herring at an agreed price per barrel, but
this, like all the other gulf fisheries carried on by Americans, has stead-
ily decreased. In 1877 there were engaged in this fishery 25 American
vessels, 65 Canadian vessels. In 1878, 18 American vessels, 71 Cana-
dian vessels, and of the American vessels only four obtained any herring.
In 1879, 5 American vessels, 42 Canadian vessels.

There have been usually during the summer a small fleet of American
cod-fishing vessels near the Magdalen Islands; but only two have been
seen this year.

In our whole cruise in the gulf, extending over the most frequented
fishing grounds, we only saw seven American schooners, and they re-
ported that there were not over twenty sail in the bay.

Leaving the Magdalen Islands, we crossed to Cape Breton, landing at
Aspée Bay, where there had been this summer some trouble between
the native fishermen and the Americans. During the present season
some American fishermen, finding that there was at the French islands
of St. Pierre and Miquelon a large demand for squid, engaged in the
business of carrying squid there and selling it in a slightly salted con-
dition to the French and American bankers, to be used as bait upon the
Grand Banks. This has proved very profitable, squid having been sold
at St. Pierre as high as seven francs a hundred, and there are already
about ten vessels engaged in this trade.

In June of the present year several of these vessels were at White-
head, Cape Breton, to procure squid. Whitehead is a small settlement
in Aspée Bay, at the extreme northern part of Cape Breton, and inhab-
ited by about two hundred fishermen. The people are very poor and
uneducated, and their only employment is cod-fishing and catching
squid and selling them to the bankers that come for bait. While these
vessels were at Whitehead the squid appeared in the bay in large schools,
and, as is usually the case when schooling, would not bite at the jig, so
neither the native fishermen nor the Americans were able to take any.
Two of the captains of the American vessels, Captain Anderson, of the
schooner Cadet, and Captain Goodwin, of the Bay State, had carried with
them from the United States seines in order to seine squid, and with these
seines they could have surrounded the squid as they schooled, and prob-
ably in a few hauls have taken a large portion of the squid in the bay,
filling their own vessels and selling the remainder to the bankers that
were there waiting for bait. When, however, they attempted to use
these seines, they were informed by the native fishermen that they would
not be permitted to seine any squid in the bay, and that if the seines were
placed in the water they, the native fishermen, would tear them up.
No actual violence was used by the natives, but threats were freely
made that any attempt to use a seine for squid would be prevented by
force. As these seines are valuable, being worth from four to five hun-
dred dollars each, the American captains did not dare risk having them
destroyed, and were obliged to leave without any squid. Captain Ander-
son afterwards returned and purchased a load of squid of the native
fishermen, paying them \$561, all of which he could have saved if he had
been permitted to use his seine. These facts are clearly shown both by
the depositions of the American fishermen and that of Mr. Challoner, a
Canadian merchant living at Whitehead, which we herewith inclose (in-
closure No. 13).

While at Aspée Bay we saw a number of the Canadian fishermen

themselves, who admitted that they had threatened Captain Anderson and Captain Goodwin, and that they had not allowed them to seine in the bay. The fishermen said what, from our own observation, we believe to be entirely true, that they were very poor, and all the cod they caught they sold to the dealers, and were compelled to take their pay in goods and supplies at high prices, and the only money they ever received during the whole year was the little they procured by selling squid to the American vessels, and that they look forward all summer to the squid season, which only lasts a few weeks, to get this money to pay their taxes and other expenses; that if the seines had been used when the squid were schooling, they would have been deprived of this money which they had hoped to earn. They were very glad to have the Americans come to purchase squid, and were willing that the Americans should jig for squid, but the large seines would soon take all the squid in the bay.

There is no law in the Dominion of Canada against seining squid, and the Americans were acting clearly within their rights under the treaty in attempting to seine.

The native fishermen, in opposing the use of seines, were only endeavoring to prevent the loss of a very lucrative trade by the Americans taking the squid with seines.

It is the same opposition that always appears when improved machinery and advanced methods of production come into competition with unskilled labor.

The great dependence of the Canadian fishing industry upon the markets of the United States for the sale of their fish, and the great benefit which they receive from the remission of duties, clearly appears from the returns. Nearly one-half of all the fish exported from Canada goes to the United States, while of mackerel alone nearly four-fifths of the entire exportation is to the United States. In 1877, 102,698 barrels of mackerel were exported to the United States, and only 28,623 barrels to all other countries. Practically the United States is the only market for the best qualities of mackerel, and if a prohibitory duty should be imposed, that fishery would be almost abandoned by the Canadians. If an average duty of 20 per cent. had been imposed on Canadian fish, more than two millions of dollars would have been received by the United States since the Treaty of Washington came into force.

The amount of fish exported from Canada to the United States, from 1873 to 1878, is as follows, viz :

1873	.....	\$1,393,390
1874	.....	1,612,266
1875		1,637,712
1876		1,465,929
1877		2,339,393
1878		1,950,894

Total export		10,398,850
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Mackerel exported 1873-1878 :

	Bbls.	Value
1873	90,889	\$610,477
1874	89,693	802,470
1875	77,538	584,870
1876	76,534	605,460
1877	102,698	845,000
1878	85,195	680,971
	522,551	4,119,248

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After leaving Cape Breton we proceeded to St. John's, Newfoundland, calling on our way at the French islands, St. Pierre and Miquelon. These islands, from their situation immediately opposite Fortune Bay, the headquarters of the herring fishery, would be very available as a baiting and supply station for our fleet of cod-fishermen if, after the expiration of the Treaty of Washington, they should be prohibited from going to the coast of Newfoundland. There is already a large trade in bait between St. Pierre and Newfoundland, which would increase if the American vessels also came in there for bait. At times so much bait comes from St. Pierre to Newfoundland at once that it cannot be sold at any price, and has to be thrown away. At present the American fishing vessels are subject to excessive port charges at St. Pierre, and this has prevented many of them from coming there for bait.

We arrived at St. John's on the 21st of August, and spent several days in visiting the various places in Trinity and Conception Bays, frequented by American fishermen for procuring bait and ice, and in making inquiries into the general condition of the inshore fisheries of Newfoundland, and how much they are prosecuted by the Americans.

The case presented on behalf of the colony of Newfoundland to the Halifax commission, after stating the great value of the inshore fisheries of that island, says:

It may be contended, on the part of the United States, that their fishermen have not in the past availed themselves of the Newfoundland inshore fisheries, with but few exceptions, and that they would and do resort to the coasts of that island only for the purpose of procuring bait for the Bank fishery. * * * It is not at all probable that, possessing as they do the right to take herring and caplin for themselves on all parts of the Newfoundland coasts, they will continue to purchase as heretofore, and they will thus prevent the local fishermen, especially those of Fortune Bay, from engaging in a very lucrative employment, which formerly occupied them during a portion of the winter season for the supply of the United States market. (British case, p. 46.)

For many years American vessels have been accustomed to resort to Fortune Bay in the winter for herring, which are shipped in a frozen state and sold in the cities of the United States. These herring were, until the winter of 1878, always purchased of the native fishermen, and this trade is admitted to have been a great benefit to them, by giving employment during a season when they have no other occupation. The number of vessels engaged in this trade was about 50, and as each vessel purchased from 600 to 800 barrels of herring, paying about one dollar a barrel, a large amount of money was received by the inhabitants.

In the winter of 1878, for the first time, the American fishermen, taking advantage of their rights under the Treaty of Washington, carried with them to Fortune Bay seines, and themselves attempted to catch the herring, thus saving the money formerly expended in purchasing.

The Newfoundland fishermen being naturally desirous of retaining their former "lucrative trade," forcibly prevented the Americans from using the seines, and during the disturbance one of the seines belonging to an American vessel was destroyed, and they were all compelled to return to the United States empty and with a total loss of the voyage, resulting in great damages to the crews and owners of the vessels. In consequence of this trouble some correspondence ensued between the two governments, in which it was assumed by the British Government that United States fishermen fishing within three miles of the coast of the British North American Dominions, under the Treaty of Washington, must conform to all the local laws and regulations governing British fishermen, and it was claimed by the British Government that the

\$1,393,389
1,612,265
1,637,714
1,455,628
2,339,363
1,950,848

10,309,250

Bbls.	Value
90,889	\$610,437
89,693	582,474
77,538	584,836
76,538	695,408
102,698	845,016
85,195	680,971

22,551 4,119,398

American fishermen were engaged in three distinct violations of the local laws.

If this is the true construction to be placed on the treaty, it is difficult to see what advantages the United States have received, and for which more than one million dollars has been paid to Newfoundland as its share of the fishery award.

Since the Washington Treaty a series of laws have been enacted by the Newfoundland legislature, the tendency of which has been to limit and restrict the rights of the American fishermen, until at the present time fishing in the territorial waters of Newfoundland has been abandoned, so that absolutely no benefit is received under the treaty by the United States in Newfoundland waters.

The law against seining herring in the winter, which it was claimed the Americans had infringed (Consolidated Stat., cap. 102, § 1), with the exception of the change of date from April 25 to April 18, is exactly the same in form with the act in present force, 42 Vic., Cap. II, § 1:

No person shall haul, catch, or take herrings by or in a seine or other such contrivance, on or near any part of the coast of this colony or its dependencies, or in any of the bays, harbors, or other places therein, at any time between the twentieth day of October in any year and the eighteenth day of April in the following year, or at any time use a seine or other contrivance for the catching or taking of herrings, except by way of shooting and forth with hauling the same: *Provided*, That nothing herein contained shall prevent the taking of herrings by nets set in the usual and customary manner, and not used for inbarring herring in a cove, inlet, or other place.

By this statute the American fisherman is prevented from seining herring during six months of the year, and during the only six months when there is any demand for herring in the United States, and when large catches and quick dispatch are of most vital importance to the success of a voyage.

The only way by which Americans can take herring during the winter months is by the slow process of setting gill-nets, and even as to these, by Consolidated Stat., cap. 102, § 2, they are limited to nets of a certain size and shape.

Herring taken in gill-nets sell for less in the market than seined herring, and the time necessary to take them in gill-nets is so long, and the expense that would be incurred by the vessels so great, that the only course that remains possible is to purchase of the native fishermen.

From the evidence taken by the British Government in reference to the trouble at Fortune Bay it appeared that the law against seining herring had never been enforced and was not known to the Newfoundland fishermen at Fortune Bay. As soon as the attention of the home government was called to this, the secretary of state for the colonies wrote to Sir John Glover, the governor of Newfoundland, suggesting, under date of July 30, 1878, that it might "be desirable that some steps should be taken for making the fishermen of Long Harbor (Fortune Bay) better acquainted with the law which prohibits the using of seines for taking herring on or near the coasts of the colony at any time between the 20th day of October and the 25th day of April in each year." This dispatch was communicated by Sir John Glover to his government (Journal of the House of Assembly, Newfoundland, 1879, appendix, p. 524.)

After this, and probably in consequence of the communication from the home government, the legislature of Newfoundland passed, March 19, 1879, an act entitled "An act to amend the law relating to the coast fisheries."

The first section of this law is the one quoted above and merely changes the date in the former law from April 25 to April 18. The

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third section increases the penalty for the violation of the law from fifty to two hundred dollars.

The fourth and fifth sections are as follows:

IV. The owners, masters, and other persons managing or controlling vessels conveying herrings in bulk between the twentieth day of October in any year and the eighteenth day of April in the following year, shall be deemed to have hauled, caught, or taken such herrings contrary to the provisions of chapter one hundred and two of the Consolidated Statutes, as amended by the said above recited act, thirty-nine Victoria, chapter six, and by this act, unless such owner, master, or other person aforesaid shall make proof to the contrary before a justice of the peace.

V. Any justice of the peace, subcollector of the customs, preventive officer, fishery warden, or constable may board any vessel suspected of carrying herrings in bulk between the twentieth day of October in any year and the eighteenth day of April in the following year; and in case any such justice, subcollector, preventive officer, fishery warden, or constable shall make signal to any vessel suspected as aforesaid, from any vessel employed by the government, by dipping the ensign at the main peak three times, and firing a gun, it shall be the duty of the owner, master, or person managing or controlling such vessel so signalled to heave-to such vessel until such justice, subcollector, preventive officer, fishery warden, or constable shall have boarded and examined such last-named vessel; and in case of such master, or owner, or person managing or controlling as aforesaid such last-named vessel omitting so to heave her to, or to afford facilities for such justice, subcollector, preventive officer, fishery warden, or constable boarding such vessel or obstructing such justice, subcollector, preventive officer, fishery officer, or constable boarding or examining any such vessel, he shall be subject to a penalty of five hundred dollars, to be recovered with costs in a summary manner before a justice of the peace, and in case default shall be made in the payment of such penalty, such justice shall issue his warrant and cause such offender to be imprisoned for a period not exceeding thirty days. (Fishery laws of Newfoundland, inclosure No. 12.)

The great injustice of this law and the effect that it will have of driving away all American vessels engaged in the winter herring fishery is very obvious. Instead of taking measures to have the laws of the colony obeyed by its own citizens, the government makes every American vessel carrying herring during the winter, whether the herring were caught by the Americans or purchased of the inhabitants, liable to a fine unless it can be shown to the satisfaction of a justice of the peace, and the burden of proof is upon the captain of the American vessel, that the herring were not taken in violation of law. And by section VI the only appeal from the decision is by a long and expensive litigation in the supreme court of Newfoundland, after giving security for the performance of the order appealed from and payment of costs.

This law was not passed until after the close of the last winter's fishing season, and has not yet been enforced. The practical enforcement of it next winter will result in a complete destruction of this industry, as carried on by the American fishermen; they cannot catch herring in their own manner and with their own nets; they are forced to purchase of the inhabitants, and finally they are liable to have their voyage broken up and their chance of carrying their herring to market in a proper condition destroyed unless they can show to the satisfaction of every petty local official that the Newfoundland fishermen from whom the herring were purchased have obeyed the laws of their own country.

In the winter of 1877, 40 vessels sailed from Gloucester alone to Fortune Bay for herring; in 1878, 26 vessels; and in 1879, only 8.

It may safely be asserted that if the law passed this year is strictly enforced, not one American vessel will in the future engage in this fishery.

The codfishery as pursued by the natives of Newfoundland is entirely an inshore fishery, carried on in small, open boats, or punts, containing three or four men, and never going beyond three miles from the shore. The fish taken are small and unsuited to the American markets; they

are usually hard cured and exported to the West Indies, Portugal, and Brazil.

The American vessels fish for cod upon the Grand Banks, from thirty to one hundred miles from the shore, and never come within the inshore waters of Newfoundland, except to procure bait. The cod taken on the banks are a different species from the shore fish and much larger; indeed, the fish caught upon the various banks differ so much in appearance that after they have been landed an experienced fisherman can tell from what bank they were taken.

The vessels used in the bank fishery are large vessels of about one hundred tons. The Americans fish usually with trawls, but in some places where the tide is very strong hand-lines are used. The bait formerly used was salted clams and menhaden, which were carried from the United States, together with the offal of the fish and whatever fresh bait could be procured on the banks; but within the last few years American vessels have been accustomed to go to the harbors and bays of Canada and Newfoundland for fresh bait, which was preserved in ice and used on the banks. This bait at different parts of the season consists of herrings, caplin, and squid, in the order named.

The bait is always purchased of the Newfoundland fishermen, and the price paid is so high that they find it much more remunerative to catch bait and sell it to the Americans than to follow their usual business of codfishing, especially during the squid season. In nearly every cove along the coast ice-houses have been erected during the last few years for selling ice to the Americans to use in preserving this bait fresh.

There are about 300 American vessels on the banks that come into Newfoundland for fresh bait, and as these vessels will average about \$400 expended for bait and ice during the season, at least \$100,000 is annually paid by the Americans to the Newfoundlanders for this purpose.

Mr. Molloy, the consul at St. John's, informed us that he had in one summer cashed drafts drawn by the American vessels for bait and ice to the amount of over \$25,000.

Much complaint is made by the American fishermen that the law prohibiting seining squid (39 Vic., cap. VI., § 3), passed April 26, 1876, prevents their taking any squid themselves, and compels them to purchase entirely of the natives. This law is as follows:

No person shall, at any time, haul, catch, or take squids, within or by means of any seine, bunt, or other such contrivance.

They say that at present they lose nearly a third of their time waiting for the local fishermen to catch the squid one by one on jigs, while if a seine could be used they would be able to take the squid themselves in a short time and leave for the banks without any delay.

Often squid will not take the jig, especially when schooling, and, although the water may be alive with them, the American vessels are obliged to leave for some other place where the squid will bite, and thus they often go from bay to bay before they can procure any bait, when, if seines could be used, they could easily have hauled all they needed. As the expenses of a codfishing vessel are about twenty dollars a day, this delay causes a great loss to the owners of the vessel. While at Trinity and Conception Bays, we saw several vessels that had waited more than ten days before they had been able to procure bait.

Each codfishing vessel requires about thirty thousand squid for a baiting, and the price usually paid is twenty cents per hundred, but in some places this summer competition has raised the price to fifty cents per hundred. Even when squid are very numerous no one man can take more than four or five hundred squid in a day with a jig, and it is impossible

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for the crew of the American vessel alone to take sufficient squid for a baiting in this manner, but if allowed to seine they could save not only the time now lost but the money paid to the native fishermen.

This law is very strictly enforced, and any attempt to seine would not only be punished by the authorities, but would probably be met with violence by the Newfoundland fishermen, who state very openly that they will not allow any seining of squid, and in this they are abetted by the local newspapers, which are very hostile to the American fishermen, and advise the local fishermen that if the government will not protect them they must protect themselves against any seining squid by the Americans.

By chapter 102, consolidated statutes, section IV, as amended April 26, 1876 (39 Victoria, cap. 6, § 2):

No person shall, between the 10th day of May and the 20th day of October, in any year, haul, catch, or take herrings or other bait for exportation within one mile, measured by the shore or across the water, of any settlement situate between Cape Chapeau Rouge and Pointe Euragee, near Cape Ray.

This law does not seem to have ever been enforced, but by its terms it would prevent the procuring of bait by Americans on a large portion of the southern coast of Newfoundland, including Fortune Bay, and that part of the coast between Cape Ray and the Rameau Islands, where the liberty of taking fish of all kinds was granted by the convention of 1818.

The question whether the American fishermen fishing in the waters of Newfoundland under treaties with the British Government are bound to obey all the local laws and regulations was the subject of some correspondence between the colony and the home government during the time when the reciprocity treaty of 1854 was in force. And March 15, 1864, a message from the governor to the house of assembly of Newfoundland inclosed a dispatch from the Duke of Newcastle and an opinion of the law officers of the Crown upon this question. (Journal of the House of Assembly, 1864, p. 75; Appendix, 661-669.)

The Government of Newfoundland claim that the right of colonial legislatures to pass laws and regulations regarding the fisheries, and to enforce their obedience by American fishermen, was admitted by the Government of the United States, in a circular addressed to the collector of customs at Boston by Hon. W. L. Marcy, Secretary of State, March 28, 1856, enjoining upon American fishermen the observance of these laws. We inclose copies of the message of the governor and accompanying papers and of the circular of the State Department. (Inclosures numbered 2, 3, 4, and 5.)

The only use which the Americans make of the inshore waters of Newfoundland and the right to enter the harbors of that island is purchasing bait and ice of the colonial fishermen. This is entirely a commercial privilege, and, under the ruling of the Halifax Commissioners, is neither granted or guaranteed by the Treaty of Washington, and already several attempts have been made to prohibit the sale of bait and ice to the Americans under heavy penalties.

It may seem strange that the colonial government should desire to put an end to this trade in bait and ice, which we have shown to be of so much value to the native fishermen; but the reason appears very evident when the state of affairs in the colony is considered.

The persons engaged in the fishing business in Newfoundland are of two distinct classes, the merchants or planters and the actual fishermen. The planters, who purchase the fish of the fishermen, are wealthy and influential, and have the largest share in the direction of the government.

In the fishing business the money is made not by the actual workers, but by the capitalist. These planters provide the fishermen with their boats and gear and provisions for their families during the winter, taking pay in fish at a price settled previously by the planters, among themselves, to prevent competition. The fishermen are very improvident, and at the end of each year are usually in debt to the planter, whose only chance of being repaid is to keep the fishermen at work catching cod, which are credited against this debt. Thus the fisherman is kept in a situation almost of bondage, forced to sell his fish at a low price to the planter, and receiving his pay in supplies at a high price.

The testimony of the Newfoundland witnesses shows that the usual profit made by the planters on the fish purchased of the fishermen was more than 30 per cent., and that a further profit of from 25 to 30 per cent. was charged upon the supplies in which payment was made. Under this credit system, whenever the fishing is bad, the fishermen must be supported either by the planters or by the government. In 1878 more than one-tenth of the entire revenue of the island was expended in pauper relief, while in 1863 nearly one-third was so used.

The money which is paid by the Americans for bait to the native fishermen never gets into the hands of the planters, but is spent by the fishermen in some other way than in paying their debts to the planters.

The planters consider this money is wasted, and say that if this trade in bait and ice was prohibited the fishermen would not be drawn away from their usual codfishing and would be gradually reducing their debts. The fisherman, however, is very willing to earn ready money by selling bait. Mr. Fraiser, now a member of the Newfoundland ministry, in his evidence before the Halifax Commission said, with reference to this trade—

You see that all the fish that are caught are in the hands of the planters. The fishermen cannot get half a quintal or a quarter of this fish until it is weighed out to him or he is settled with. So he has not a copper between the time he goes out in the spring and the settlement in October, except in case of an independent fisherman. Therefore the inducement of a little ready money from the Americans is very alluring to him.

These attempts to prohibit the sale of bait and ice to the Americans have been, to a certain extent, party questions in the local politics of the colony.

In 1877 the governor called the attention of the Home Government to this traffic, saying that it had injured the fisheries by making it harder for the local fishermen to procure bait, and that it called "the colonial fishermen away from their own fishing to procure a supply of bait and ice for the Americans." (Sir John Glover to Earl Carnarvon, December 31, 1877; *Journal of the House of Assembly*, 1878; Appendix, pages 294, 295, and 296.)

No action was taken by the Home Government upon this communication, and on June 25, 1878, the governor wrote to the colonial office, inclosing an address of the house on this subject, and requesting that the Home Government might comply with the wishes of the colonists, as expressed in the address.

This letter was replied to by the colonial secretary, Sir M. Hicks Beach, December 25, 1878, inclosing a report by the inspectors of salmon fisheries on this subject, saying:

It will be perceived that the general conclusion of the inspectors, who are gentlemen of large experience in such matters, is to the effect that the operations of man have but a very slight effect on the supply of herring, and that, with the experience of this country before them, they doubt the necessity of any legislation for the protec-

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tion of herring, and they doubt the propriety of interfering, under any circumstances, with the capture of bait, as well as the possibility of making any regulation which would be effectual, applicable to the territorial waters of a single country, and that, reasoning from analogy, they would hesitate to advise the adoption of any regulations for the preservation of caplin or squid. * * * With this report before them, Her Majesty's Government cannot but feel uncertain whether any failure in the bait fishery of Newfoundland would be remedied by the adoption of the measures proposed by the house of assembly, and whether the practice complained of and which it is sought to prohibit has been sufficiently proved to have diminished the actual quantity of bait visiting the coast, although the increased competition of the Americans may have made it less easy for the local fishermen to secure the bait they require for their own fishing.

But, apart from this view of the question, Her Majesty's Government deem the present moment inopportune to effect any such change in practice as that which it is desired should be established. They are giving their most careful consideration to the whole question of the fisheries, both as regards the United States subjects and the subjects of France, and they feel that a satisfactory solution of the several important points at issue might be considerably hindered by action in the direction suggested by the assembly. (Journal of House, 1879, Appendix, pages 404-413.)

Copies of this correspondence are herewith inclosed. (Inclosures Nos. 6, 7, 8, and 9.)

This dispatch of Sir M. Hicks Beach follows the course pursued by one of his predecessors, the Duke of Newcastle, who, during the time the Reciprocity Treaty was in force, wrote to the governor of Newfoundland "that no act can be allowed which prohibits expressly, or is calculated by a circuitous method to prevent, the sale of bait." (Duke of Newcastle to Sir A. Bannerman, August 3, 1863.)

If such laws as were proposed by the Newfoundland assembly should ever be enacted, it is difficult to see how they could be practically enforced.

American fishermen having the right under the treaty to take fish of all kinds themselves, they must also have the right to hire others to take fish for them. And the British counsel before the Halifax Commission argued that the American fishermen, under the old maxim *qui facit per facit per se*, must be considered to have taken the bait themselves when they purchased it of the Newfoundlanders. Under this construction any law prohibiting the sale of bait would be a violation of the treaty rights.

We heard in Newfoundland of no complaints of any trouble between the Americans and the native fishermen this year except in one instance, and that was of no great importance. An American desired to seine squid, and the natives told him they would not allow it; there was no violence of any kind, only some threatening language. We caused statements to be prepared by the captain and one of his crew, and they were given to Mr. Molloy, the consul of the United States, to have them sworn to. While we were absent Mr. Molloy, upon his own responsibility, forwarded copies of these statements to the governor of Newfoundland, with a request that an investigation should be made. We have not learned what the result of this investigation was, but Mr. Molloy has probably already forwarded a report to the Department of State.

Very little of the fish cured in Newfoundland is exported to the United States. In 1878, only \$168,814 in amount came to the United States from Newfoundland, while the total export of fish to all other countries was \$5,588,530.

Leaving St. John's, Newfoundland, on August 27, we reached Halifax, Nova Scotia, upon September 1, stopping one day at Port Mulgrave, in the Gut of Canso. During the Reciprocity Treaty, when many American vessels came to the Gulf, a large business in refitting vessels was

carried on at Port Mulgrave, but now the wharves are deserted and very little seems to be done there.

At Halifax we left the United States steamer Kearsarge, and returned to the United States by land, arriving in Boston on September 7.

In conclusion we desire to express the very great obligations we are under to Commander Pickens and the other officers of the United States steamer Kearsarge for their uniform courtesy, and for their kind endeavors to aid us in every way in our investigations.

We have the honor to be, sir, your obedient servants,

FITZ J. BABSON.

ALFRED DWIGHT FOSTER.

[Inclosures.]

1. List of American fishing vessels in the Gulf of St. Lawrence during 1879.
2. Copy of message of the governor of Newfoundland, March 15, 1864.
3. Copy of opinion of the law officers of the Crown, January 6, 1863.
4. Copy of dispatch from the Duke of New Castle to the governor of Newfoundland, August 3, 1863.
5. Copy of letter from Hon. W. L. Marcy, Secretary of State, to the collector of Boston, March 28, 1866.
6. Copy of letter from the governor of Newfoundland to Earl Carnarvon, December 31, 1877.
7. Copy of letter from the governor of Newfoundland to Sir M. Hicks Beach, June 26, 1878.
8. Copy of dispatch from the colonial officer to the governor of Newfoundland, December 25, 1878.
9. Copy of report of the inspectors of salmon fisheries to the colonial office, September 30, 1878.
10. Acts passed to carry into effect the Treaty of Washington.
11. Fishery acts of the Dominion of Canada.
12. Fishery laws of Newfoundland.
13. Depositions in regard to the trouble at Aspie Bay, Cape Breton.

No. 1.

List of American mackerel-fishing vessels in the Gulf of St. Lawrence, 1879.

Date of arrival.	Name and port.	No. of barrels.	Date of departure.
1879.			
June 6	Cayenne, Salem	510	August 1.
6	B. D. Haskins, Gloucester		July 28.
9	E. F. Norwood, Gloucester	330	August 12.
9	F. A. Smith, Gloucester	120	August 14.
9	E. Everett, Gloucester	285	August 1.
11	Marion Grimes, Gloucester	250	July 17.
12	Rattler, Gloucester	400	August 14.
14	T. L. Mayo, Gloucester		August 15.
15	Rushlight, Gloucester	300	August 2.
16	C. L. Dyer, Portland		
16	E. J. Evans, Harwichport		July 14.
20	Electric Flash, Gloucester	300	August 14.
20	M. L. Wetherell, Gloucester		August 14.
20	Vanilla, Brooklyn, N. Y.	110	July 13.
20	Harvest Home, Gloucester		
20	G. W. Brown, Newburyport	189	August 14.
20	M. E. Torry, Sedgwick, Me.	250	July 13.
20	Morning Star, Cohasset	400	August 4.
20	H. M. Crosby, Gloucester	400	August 6.
20	J. H. Perkins, Gloucester		August 6.
20	Ossipee, Gloucester	320	July 28.
22	L. M. Warren, Deer Isle	300	July 28.
22	Idella Small, Deer Isle	225	July 18.
22	Nellie Burns, Portland	300	July 28.
23	Minnie Weston, Portland	220	August 4.
23	Mytic, Essex		
29	Hattie Clarke, Essex		
30	Alice M. Gould, Portland	200	

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No. of barrels.	Date of departure.
510	August 1.
330	July 28.
120	August 12.
285	August 14.
250	August 1.
400	July 17.
300	August 14.
320	August 3.
300	July 14.
110	August 14.
180	July 13.
250	August 6.
400	August 14.
330	July 28.
300	July 23.
225	July 18.
300	July 28.
220	August 3.
200	

ALLEGED OUTRAGE UPON AMERICAN FISHERMEN.

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No. 1.—*List of mackerel-fishing vessels, &c.*—Continued.

Date of arrival.	Name and port.	No. of barrels.	Date of departure.
1879.			
July 3	J. J. Clarke, Gloucester	420	
4	Mantanomah, Newburyport	180	
7	MacLeod, Boston		
8	Isaac Rich, Gloucester		
9	Isabella, Gloucester	250	
10	Mary Fenald, Rockport	370	
15	Flying Cloud, Boston		
19	Crown Point, Newburyport		
20	Auerdeen, Gloucester		
22	Jamestown, Gloucester		
23	Adelia Hartwell, Gloucester		
Aug. 4	C. C. Davis, Boston		
7	Greyhound, Newburyport		
9	Edmund Burke, Newburyport		
9	Sarah K. Babson, Newburyport		
9	C. B. Manning		

PORT MULGRAVE, September 1, 1879.

No. 2.

Message from his excellency the governor of Newfoundland, March 15, 1864.

A. BANNERMEN, GOVERNOR.

In the latter part of the year 1862 reliable information reached the admiral, commander-in-chief on this station, as well as the governor of the colony, that parties possessing fishing privileges on the coast of Newfoundland and Labrador contemplated to disregard laws in existence, or hereafter to be passed by the colonial legislature, for regulating the mode of conducting the fisheries, provided such laws interfered with the mode usually in practice.

The governor considered it to be his duty, therefore, to apprise the colonial minister, requesting instructions for his guidance, in order that the same might be communicated to the admiral.

His Grace, in a despatch dated 2d February, 1863, forwarded to the governor the opinion of the law officers of the crown in England on the question referred to them; and His Grace concludes the despatch by saying:

"I have only to add my desire that while asserting the authority of colonial law in colonial waters, within the limits of existing treaties, you will take care to do so in the manner which is likely to be least offensive to the foreigners who may fall within its scope."

It will be seen from the report of Captain Hamilton, laid before the house of assembly, that in the fishing season of 1863, that gallant officer had no trouble on the question referred to, or any other, during his cruises on the coast of Labrador.

The governor, however, considers it proper that the opinions of the law officers of the crown should be placed on record, and with that view they are herewith sent, and discussions having arisen in regard to the Treaties of 1818 and 1855, he sends authentic extracts from these Treaties, which may be useful as a matter of reference.

GOVERNMENT HOUSE, 15th March, 1864.

No. 3.

Opinion of the law officers of the crown, whether United States citizens fishing in waters within the jurisdiction of Newfoundland are bound to obey and legally punishable for disregarding the laws and regulations enacted by the colonial legislature.

TEMPLE, January 6th, 1863.

MY LORD DUKE: We are honored with Your Grace's commands, signified in Sir F. Rogers' letter of the 17th December, ulto., stating that he was directed by Your Grace to request that we would favor you with our opinion upon the following question:

"That by a treaty between Great Britain and the United States of America, dated October 20th, 1818 (Hentslett II, p. 392), it was provided *inter alia* that the inhabit-

ants of the United States should forever have the liberty to take fish on the coasts of Newfoundland (as therein described) in common with the subjects of Her Britannic Majesty."

That this privilege was extended to the coasts of Canada, New Brunswick, Nova Scotia, and Prince Edward Island, and the several islands thereto adjacent (Hentslett IX, p. 990) and acts were passed by the different colonies (Hentslett X, p. 648, 649, 651, 652, 653) to give effect to the treaty, and especially to suspend the laws of the different colonies which were inconsistent with the terms or spirit of the treaty.

Sir Frederick Rogers was also pleased to state that Your Grace desired to be informed whether inhabitants of the United States fishing in waters within the jurisdiction of the legislature of Newfoundland, or of any other of the above-mentioned colonies, are bound to obey and legally punishable for disregarding the laws or regulations enacted by or under the authority of the respective provincial legislatures, for the conduct of the fisheries; and that Your Grace presumed that such laws would only extend to waters situated within a marine league of the coast of the colony, which (in the case of Newfoundland to which this question especially relates) are defined by the governor's commission, from which an extract was annexed.

Sir Frederick Rogers was further pleased to inclose an extract from a report addressed to Sir A. Bannerman, by the officer employed on the coast of Newfoundland, copies of a letter from Sir Alexander Milne, transmitting that report to the Lords Commissioners of the Admiralty, and of a letter addressed to the Colonial Department by direction of their Lordships.

These papers would explain the object with which the present question was asked. In obedience to Your Grace's commands, we have taken these papers into consideration, and have the honor to report:

That, in our opinion, inhabitants of the United States, fishing within waters of the territorial jurisdiction of the legislature of Newfoundland, or of any other of the above-mentioned colonies, are bound to obey, and are legally punishable for disregarding the laws and regulations for the conduct of the fisheries enacted by, or under the authority of, the respective provincial legislatures. The plain object of the treaties above referred to was to put the inhabitants of the United States as regards the "liberty to take fish" within the parts (described) of the British dominions, on the same footing as "subjects of Her Britannic Majesty"—"in common with whom," in the terms of the treaties, such liberty was to be enjoyed.

The enactments subsequently passed did but confirm the treaties and provide for the suspension during the operation of those treaties, of such laws, &c., as were or would be inconsistent with the terms and spirit of the treaties; which "terms and spirit" are, it appears to us, in no respect violated by regulations *bona fide* made for the government of those engaged in the fishing, and applicable to British subjects so employed.

We think, at the same time, that this British authority, as regards the inhabitants of the United States, can be exercised within those limits only within which the treaty-rights were conferred; in other words, within which, but for the treaties, those inhabitants could not have insisted on their right to fish.

These limits may be safely taken on the main ocean as extending to three miles (or a marine league) from the beach seawards; but there will remain possibly the enclosed bays and other spots lying between headlands and other points of the mainland, the whole of which may be territorial, and subject to the ordinary municipal jurisdiction, to which the mainland owes obedience.

Beyond this we conceive that the matters to be considered are matters rather of fact than of law.

We have, &c., &c.,

W. ATHERTON.
ROUNDELL PALMER.

His Grace THE DUKE OF NEWCASTLE.

No. 4.

Copy of a despatch from the secretary of state for the colonies in reply to a request from the governor that the copy of a draft bill for regulating the fisheries may be looked over, and any parts pointed out, such as probably might not be sanctioned by the crown.

DOWNING STREET, 3rd August, 1863.

SIR: I have the honor to acknowledge the receipt of your despatch No. 34 of the 29th June, enclosing a printed copy of the proceedings of a committee appointed to enquire into the state of the fisheries of Newfoundland, together with a draft bill framed with a view to their proper regulation, and requesting that the provisions of

this draft bill may be looked over, and any parts of it pointed out, such as probably might not be sanctioned by the Crown if it were passed.

2. I apprehend that it is not your expectation that I should express an opinion respecting the practical modes of conducting those fisheries, it being plain that the inhabitants of Newfoundland are or ought to be best capable of judging what regulations are calculated to increase the productiveness of their own seas, and with respect to imperial interests I do not think it desirable to anticipate that close inquiry to which any act passed upon this matter must be subjected in order to ascertain that it does not infringe upon the right guaranteed to foreigners or run counter to any principle of imperial policy.

3. The observations which suggest themselves to me, however, on the perusal of the draft bill are—

1st. That if any misconception exists in Newfoundland respecting the limits of the colonial jurisdiction, it would be desirable that it should be put at rest by embodying in the act a distinct settlement that the regulations contained in it are of no force except within three miles of the shore of the colony.

2nd. That no act can be allowed which prohibits expressly, or is calculated by a circuitous method to prevent, the sale of bait.

3rd. That all fishing acts shall expressly declare that their provisions do not extend or interfere with any existing treaties with any foreign nation in amity with Great Britain.

4th. That, in any part of the colonial waters, it would be highly unjust and inconvenient to impose upon British fishermen restrictions which could not, without violating existing treaties, be imposed upon foreigners using the same fisheries. On this point, however, I would refer you to my despatch, marked "confidential," of the 2nd of February.

I have, &c., &c.,

NEWCASTLE.

Governor SIR A. BANNERMAN.

DEPARTMENT OF STATE,
Washington, April 10, 1856.

To the Collector of the Customs at ———, ——— :

SIR: I herewith transmit to you ——— printed copies of a circular letter addressed by this department to the collector of the customs at Boston on the 28th ultimo, concerning the fisheries on the coasts of the British North American Provinces, which circular you will be pleased to regard as having been addressed directly to yourself, and accordingly communicate copies thereof to the masters of such fishing vessels as belong to your port.

I am, &c., &c., &c.,

W. L. MARCY.

[Circular.]

Mr. Marcy to Mr. Peaslee.

DEPARTMENT OF STATE,
Washington, March 28, 1856.

SIR: It is understood that there are certain acts of the British North American Colonial legislatures, and also, perhaps, executive regulations, intended to prevent the wanton destruction of the fish which frequent the coasts of the colonies, and injuries to the fishing thereon.

It is deemed reasonable and desirable that both United States and British fishermen should pay a like respect to such laws and regulations, which are designed to preserve and increase the productiveness of the fisheries on these coasts. Such being the subject of these laws and regulations, the observance of them is enjoined upon the citizens of the United States in like manner as they are observed by British subjects. By granting the mutual use of the inshore fisheries, neither party has yielded its rights to civil jurisdiction over a maritime league along its coast. Its laws are as obligatory upon the citizens or subjects of the other as upon its own. The laws of the British Provinces not in conflict with the provisions of the Reciprocity Treaty would be as binding upon citizens of the United States within that jurisdiction as upon British subjects. Should they be so framed or executed as to make any discrimination in favor of the British fisherman, or to impair the rights secured to American fishermen by that treaty, those injuriously affected by them will appeal to this government for redress. In presenting complaints of this kind, should there be cause

for doing so, they are requested to furnish the Department of State with a copy of the law or regulation which is alleged injuriously to affect their rights or to make an unfair discrimination between the fishermen of the respective countries, or with a statement of any supposed grievance in the execution of such law or regulation, in order that the matter may be arranged by the two governments.

You will make this direction known to the master of such fishing vessels as belong to your port, in such manner as you may deem most advisable:

I am, &c.,

W. L. MARCY.

It is believed that the principal regulations referred to above are the following, from the Revised Statutes of New Brunswick, Vol. 1, Title 22, chapter 101:

"7. The wardens of any county shall, when necessary, mark out and designate, in proper positions, 'gurry grounds,' putting up notices thereof, describing their limits and position, in the several school-houses and other most public places in the parishes where the gurry grounds are marked out, publishing the like notice in the Royal Gazette; and no person after such posting and publication shall cast overboard from any boat or vessel the offal of fish into the water at or near the said parish at any place except the said gurry grounds."

"12. Within the parishes of Grand Manan, Campo Bello, Pennfield, and St. George, in the county of Charlotte, no seine or net shall be set across the mouth of any haven, river, creek, or harbor, nor in such place extending more than one-third the distance across the same, or be within forty fathoms of each other; nor shall they be set within twenty fathoms of the shore at low-water mark."

"15. No herring shall be taken between the 15th day of July and the fifteenth of October in any year on the spawning-ground at the head of Grand Manan, to commence at the eastern part of Seal Cove, at a place known as Red Point, thence extending westerly along the coast and around the southern head of Bradford's Cove about five miles, and extending one mile from the shore. All nets or engines used for catching herring on the said ground within that period shall be seized and forfeited, and every person engaged in using the same shall be guilty of a misdemeanor and punished accordingly."

No. 6.

[Despatches and correspondence in reference to the traffic in bait and ice.]

Governor Sir John H. Glover to Earl Carnarvon.

GOVERNMENT HOUSE, 31st December, 1877.

MY LORD: I have the honor to enclose a minute of my executive council, giving their opinion as to the injurious results to the fisheries of Newfoundland from the taking of bait for exportation, as pointed out in the senior naval officer's report enclosed in your lordship's despatch No. 68.

2. At the same time, my ministers, in anticipation of legislative action upon this important subject, deem it advisable to request me to have it brought under your lordship's consideration before the next session, which annually meets near the end of January.

3. From the admission of the Americans to rights of fishery on this coast under the Washington Treaty, more difficulty will be experienced than heretofore in the carrying out of the local acts regulating the taking of herring; but with additional steam aid it is hoped that more efficient protection will be afforded in those parts where breaches of the law will probably occur.

4. There is a strong feeling extant against the American fishermen, who this year with numerous vessels visited many of the fishing stations, before free from their intrusions, their chief object being to procure fresh bait and ice, which they did in large quantities, for their bankers, to the alleged injury of our inshore fishermen. This year there has been in several places a failure in the fishery, which to a large extent is attributed to this American interference.

5. The effect of the recent decision at Halifax, as reported, disallows this traffic under the treaty, and from the opinion prevailing my ministers surmise that more stringent legislation will be demanded effectually to check this traffic than at present exists, and that a large majority in the legislature on both sides will press for the adoption of such a policy.

6. Should such be insisted upon, it appeared probable to my ministers that it would embrace prohibition to colonial fisherman to supply or aid in supplying, or to export, fresh bait, which would in that respect apply equally to the French with the Americans, but the latter would have the advantage of taking for themselves if they pleased.

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to do so; and it is conceived that the exercise of this right would not be so prejudicial as the practice that has lately existed in taking away the colonial fishermen from their own fishing to procure a supply of bait and ice for the Americans.

7. It may be safely asserted that with the experience derived from the operation of the Washington Treaty there would be no probability of the legislature extending the concession to fish in our own waters.

I have, &c., &c.,

JOHN H. GLOVER.

W. L. MARCY.

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No. 7.

Governor Sir John H. Glover to Sir M. Hicks Beach.

GOVERNMENT HOUSE, 26th June, 1878.

Sir: I have the honor to enclose for your consideration a copy of an address from the house of assembly, accompanied by the report of a select committee of the house, and evidence taken on the subject of the traffic in bait and ice, and its effect on the fishery of the country.

2. I would observe that this address and report represent a very strong opinion prevailing generally throughout the colony on the matters in question, and it is hoped that Her Majesty's Government may find themselves able to comply with the wishes expressed in the address, and to enforce the provisions of the convention and act therein mentioned.

3. It was at first proposed in the legislature that a special act should be passed to prohibit the traffic, and the alternative of the present address was adopted at the suggestion of the government, who thought it the most expedient course of action.

I have, &c., &c.,

JOHN H. GLOVER.

No. 8.

The colonial office to Sir John H. Glover.

DOWNING STREET, 25th December, 1878.

Sir: I duly received your despatch No. 56 of the 25th June, in which you forwarded a report (with evidence) of a select committee of the house of assembly of Newfoundland, relating to the traffic in bait and ice, which is carried on in the colony with fishermen of the United States to an extent which is represented as having a very injurious effect upon the fishery.

2. I have considered the address of the house of assembly, founded on that report, respecting the opinion that this traffic should be prohibited, and urging that directions may be given for causing the provisions contained in the convention with the United States of America of 1818, and the imperial act 59, Geo. 3, cap. 38, to be put in operation, with the object of carrying such prohibition into effect.

3. This matter was previously brought to the notice of my predecessor in your despatch No. 104 of the 31st of October, 1877, to which he replied on the 7th of January of this year.

4. I thought it advisable on the receipt of your despatch, now under acknowledgment, to take the opinion, in the first instance, of the inspectors of salmon fisheries in this country, as to whether the reported deterioration of the bait fisheries might not be met by some general regulations for their prevention.

5. I enclose a copy of the report which I have received in reply.

6. It will be perceived that the general conclusion of the inspectors, who are gentlemen of large experience in such matters, is to the effect that the operations of man have had a very slight effect upon the supply of herring, and that, with the experience of this country before them, they doubt the necessity of any legislation for the protection of herring; that they doubt the propriety of interfering under any circumstances with the capture of bait, as well as the possibility of making any regulation which would be effectual, applicable to the territorial waters of a single country, and that, reasoning from analogy, they would hesitate to advise the adoption of any regulations for the preservation of capelin or squid.

7. You will notice, in addition to these general conclusions, the observations of the inspectors as to the regulations which were established on the northwest coast of Newfoundland, which operated with considerable hardship to the fishermen, without there being apparently any increase in the number of fish, and which gradually fell into disuse and were subsequently repealed.

8. With this report before them, Her Majesty's Government can not but feel uncer-

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tain whether any failure in the bait fishery of Newfoundland would be remedied by the adoption of the measures proposed by the house of assembly, and whether the practice which is complained of, and which it is sought to prohibit, has been sufficiently proved to have diminished the actual quantity of bait visiting the coast; although the increased competition of the Americans may have made it less easy for the local fishermen to secure the bait they require for their own fishing.

9. But, apart from this view of the question, Her Majesty's Government deem the present moment inopportune to effect any such change in practice as that which it is desired should be established; they are giving their most careful consideration to the whole question of the fisheries, both as regards United States subjects and the subjects of France, and they feel that a satisfactory solution of the several important points at issue might be considerably hindered by action in the direction suggested by the assembly.

10. You will be so good as to communicate this despatch to your government.
I have, &c., &c.,

M. HICKS BEACH.

No. 9.

Inspector of salmon fisheries to colonial office.

HOME OFFICE, September 30, 1878.

SIR: We have the honor to acknowledge the receipt of your letter of the 5th instant, enclosing, by direction of Secretary Sir Michael Hicks Beach, a copy of a despatch from the governor of Newfoundland, with an address from the house of assembly "relating to the deterioration of the bait fisheries of Newfoundland, and the measures proposed to be taken to remedy this evil."

Sir Michael Hicks Beach is so good as to ask us whether, without entering into a consideration of the course recommended by the house of assembly of Newfoundland, we could suggest any general regulations applicable to fishermen, of whatsoever nationality, for the preservation of the bait.

The term "bait," as it is used in the papers which have been sent to us, appears to comprise three distinct things—herring, caplin, and squid.

Herring appear to be used as bait for cod in the early part of the season, squid during the summer and autumn, and caplin during the other portions of the year.

The caplin (*Mallotus villosus*) is nearly allied to the smelt, but it is not met with in British waters. We have therefore no personal information respecting this fish. Squid are, we believe, occasionally used as bait in this country, but their use is only occasional, and we have no personal experience regarding them.

As, therefore, Sir M. Hicks Beach has asked us to furnish him with such suggestions as our experience may enable us to make in regard to bait, and as our experience does not extend either to caplin or to squid, we conceive that we shall be complying strictly with his wish by confining our observations to herring.

Herrings, usually immature or "spring" herrings, are largely used by line fishermen as bait both in England and Scotland.

During a portion of the year the line fishermen are mainly dependent on the herrings as bait.

A few years ago Parliament imposed a close season for herrings on the west coast of Scotland. The close season extended to herrings taken both for food and for bait; it is admitted to have occasioned considerable hardship to the fishermen; it does not appear to have been attended with any increase in the number of herring; it gradually fell into disuse, and so far as the northwest of Scotland is concerned it was repealed; so far as the southwest of Scotland is concerned it ceased to be observed.

A great many persons locally interested in the Scotch herring fisheries are desirous of re-enacting this close season, or for taking some other means for the increase of the herrings, but they are unanimous, or almost unanimous, in saying that this close season or these regulations must not apply to herrings taken for bait.

With the experience of previous legislation before them, they are satisfied that no restrictions whatever must be imposed upon the capture of herrings for bait.

We may say that similar conclusions were expressed to us during our inquiry into the crab and lobster fisheries of Great Britain. Many of the most experienced fishermen we found desired that some well-considered regulations should be made for the development of these fisheries. But nearly every fisherman considered that these regulations should not in any case apply to the crabs taken for bait.

Their argument seemed to us, we may add, perfectly sound.

Bait is of such importance to the fishermen, and in certain seasons and in certain places so difficult to be got, that we should in this country, at any rate, strongly dissent from any regulations which might interfere with its capture.

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So far, then, as the mere question of bait is concerned, we doubt the propriety of any regulations interfering with its capture. But we also doubt the necessity, we doubt the possibility of any operations of man interfering with the stock of herrings in the sea.

The allegation that the stock of herrings is materially reduced by the operations of the net fishermen has been constantly made in various parts of the kingdom. But notwithstanding the constant increase of netting, the annual number of herrings taken by man has been continually and regularly increasing. Though the quantity of herrings taken off the Scotch coasts is now ten times greater than it was fifty years ago, there are no indications that this prodigious increase in their capture has made any impression on the stock of herrings in the sea.

It is true that there are some reasons for thinking that the increase of netting has prevented the herrings from entering some of the inland locks which used to be frequented by them; there is at any rate no doubt that herrings have deserted, or partially deserted, certain portions of the coast which were previously frequented by them.

But, in the first place, it is not absolutely clear that their desertion of such portions of the coast has been due to the operations of man; and in the second place, it is not clear that, if it be so due, any regulations which could easily be made would obviate the evil.

It is not clear that the desertion of certain portions of the coast by the herrings is due to the operations of man. (1) because it is a well known and ascertained fact that fish do desert certain places for a long series of years, whether they are netted or not, and (2) because it has also been ascertained that they have not been driven from other portions of the coast by unrestricted netting.

Even if the herring deserted certain portions of the coast in consequence of the excess of netting, it is not easy to see how any regulations which man could make would obviate the evil.

The regulations which man could make, or at any rate which any single nation could make, must necessarily apply to the territorial waters of that country; but herrings are just as easily taken ten miles from the shore, or even fifty miles, as well as within three miles of it.

The greater number of herrings are, in fact, taken more than ten miles from the land, and it is the almost universal opinion of fishermen that the operations of man have a greater effect in breaking up the shoals out at sea a long distance from land than close to the shore.

Regulations, therefore, applicable to the territorial waters would have the effect of driving the fishery farther from the shore. They would have no other effect whatever.

Writing, then, simply with the experience of this country before us, we doubt the necessity of any legislation for the preservation of herrings; we doubt the propriety of interfering under any circumstances with the capture of bait; and we doubt the possibility of making any regulations which would be effectual, applicable to the territorial waters only of a single country.

Reasoning only from analogy, we should also hesitate to adopt any regulations for the preservation of caplin or of squid; but as on these points we have no experience, we do not venture to pronounce a positive opinion on them.

Sir Michael Hicks Beach will observe that we have confined the preceding observations strictly to the point on which he has asked our opinion, viz. the possibility of making any regulations applicable to all fishermen of whatsoever nationality for the preservation of bait.

There are other points connected with these papers, such as the relative values of the cod and bait fisheries to the Newfoundland fishermen, or the difficulty of allowing the sale of a fish three miles from shore, the sale of which was illegal within three miles from the shore, on which we forbear from making any observations whatever.

We venture, in forwarding this reply, to transmit with it copies of our report (1) on the herring fisheries of Scotland, (2) on the crab and lobster fisheries of Great Britain, in which many of the arguments which we have summarized in this letter are stated more fully, and we have only to add that if there is any other point on which Sir Michael Hicks Beach desires information, and in which it may be in our power to assist him, it will afford us much pleasure to do so.

We have, &c., &c.,

FRANK BUCKLAND,
S. WALPOLE,
Inspectors of Salmon Fisheries.

No. 10.

AN ACT to carry into effect a treaty between Her Majesty and the United States of America

(Imperial Parliament, 6th August, 1872.)

AN ACT relating to the Treaty of Washington, 1871.

(Canadian Parliament, 14th June, 1872.)

35 AND 36 VICTORIA.

CHAP. XLV.—AN ACT to carry into effect a treaty between Her Majesty and the United States of America. A. D. 1872.

(6th August, 1872.)

Whereas a treaty between Her Majesty and the United States of America was signed at Washington on the eighth day of May, one thousand eight hundred and seventy-one, and was duly ratified on the seventeenth day of June of that year, which, amongst other things, contained the articles set out in the schedule of this act:

And whereas an act intituled "An act relating to the Treaty of Washington, 1871," has been passed by the Parliament of Canada for the purpose of carrying into operation the said articles;

And whereas an act intituled "An act relating to the Treaty of Washington, 1871," has been passed by the legislature of Prince Edward's Island, for the purpose of carrying into operation the said articles;

And whereas the Congress of the United States of America have not as yet passed any act for carrying into operation on the part of the United States the said articles;

And whereas it is expedient to make provision by act of Parliament for carrying into operation the said articles;

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. As soon as the law required to carry into operation, on the part of the United States of America, the articles set out in the schedule to this act has been passed by the Congress of the United States and come into force, all acts of Parliament and laws which operate to prevent the said articles from taking full effect shall, so far as they so operate, be suspended and have no effect during the period mentioned in the article numbered thirty-three in the schedule to this act.

Suspension of acts at variance with articles.

2. Whenever the necessary laws have been passed by the legislature of Newfoundland and approved by Her Majesty for carrying into operation the articles in the schedule to this act, so far as they relate to Newfoundland, it shall be lawful for the officer administering the government of Newfoundland at any time during the suspension, in pursuance of this act, of the above-mentioned acts of Parliament, and laws by his proclamation to declare that after a time fixed in such proclamation for that purpose, this act and the articles in the schedule to this act shall extend, and the same accordingly shall extend to Newfoundland so far as they are applicable thereto.

Provision for extension of articles to Newfoundland.

3. This act may be cited as "The Treaty of Washington Act, 1872."

Short title.

(NOTE.—For schedule, see Treaty of Washington in vol. of statutes of Canada, 35 Vict., A. D. 1872.)

ANNO TRICESIMO-QUINTO VICTORIÆ REGINÆ.

CAP. I.—AN ACT to amend the act respecting the statutes of Canada.

(Assented to 14th June, 1872.)

d States of America

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. All the original acts passed by the legislatures of the late provinces of Upper or Lower Canada, or of the late province of Canada, transferred to and deposited of record in the office of the clerk of the Senate, and also all original acts of the Parliament of Canada heretofore assented to, or hereafter to be assented to by the governor-general, and all bills reserved for the signification of the Queen's pleasure, and assented to or disallowed by the Queen in council, shall be and continue to remain of record in the custody of the clerk of the Senate of Canada, and such clerk, as custodian thereof, shall be known and designated as "The clerk of the Parliaments." And everything now required by the act intitled: "An act respecting the statutes of Canada," or by any other act of the Parliament of Canada, to be done by the clerk of the Senate, as custodian of the said acts or any of them, shall be done by the clerk of the Parliaments.

Preamble.

Clerk of the Parliaments to have the custody of original acts of Parliament and of certain late legislatures, and of reserved bills.

and the A. D. 1872.

2. The clerk of the Parliaments shall have a seal of office, and shall affix the same to certified copies of all acts intended for the governor-general or the registrar-general of Canada or required to be produced before courts of justice, either within or beyond the limits of the Dominion of Canada, and in any other case when the said clerk may deem it expedient.

Clerk of the Parliaments to have and use a seal of office.

3. All copies of the acts above referred to, so certified by the clerk of the Parliaments, shall be held to be duplicate originals, and also to be evidence, as if printed under the authority of Parliament by the Queen's printer, of such acts and of their contents.

Certified copies of acts to be held to be duplicate originals.

4. As soon as practicable after the prorogation of every session of Parliament, the clerk of the Parliaments shall obtain from the Queen's printer a sufficient number of bound copies of the statutes of Canada passed during such session of Parliament, and shall deliver to the governor-general one copy duly certified, for transmission to one of Her Majesty's principal secretaries of state, as required by the British North American act, 1867, together with certified copies of all bills reserved for the signification of the Queen's pleasure, and one like copy of the said acts in the English and French languages to the registrar-general of Canada.

Bound copy of statutes of Canada, and copies of reserved bills duly certified, to be delivered to the governor, and bound copy to registrar-general.

5. The clerk of the Parliaments shall also furnish certified copies of any of the acts above mentioned to any public officer or party applying for the same; and upon all such copies the said clerk of the Parliaments shall, before delivering the same to such officer or party, receive from such party a fee at the rate of ten cents for every hundred words in the certified copy and certificate; and all sums so received by him shall form part of the contingent fund of the Senate.

Certified copies of acts to be furnished on application.

6. All certified copies required for the public service shall be obtained from the clerk of the Parliaments through the secretary of state of Canada.

Copies for public service.

7. The clerk of the Parliaments shall insert at the foot of every such copy so required to be certified, a written certificate, duly signed and authenticated by him, to the effect that it is a true copy of the act passed by the Parliament of Canada, or by the legislature of the late province of Canada, or of the late province of Upper Canada or Lower Canada (as the case may be) in the session thereof held in the year of H. M. reign, and assented to in Her Majesty's name, by the governor-general, or (as the case may be), on the day of , or reserved for the signification of Her Majesty's pleasure thereon, and assented to by Her Majesty in council, on the day of .

Certificate to be inserted at the foot of every copy of act required to be certified.

1872." Short title

tes of

AN ACT relating to the Treaty of Washington, 1871.

(Assented to 14th June, 1872.)

Whereas by article thirty-three of the treaty between Her Majesty and the United States of America, signed at the city of Washington on

Preamble.

the eighth day of May, 1871, it is provided that articles eighteen to twenty-five, inclusive, relating to the fisheries, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the legislature of Prince Edward's Island, on the one hand, and by the Congress of the United States on the other, and that such assent having been given, the said articles shall remain in force for the term of years mentioned in the said article thirty-three; and whereas it is expedient that the laws required to carry the said treaty into effect, as respects Canada, should be passed by the Parliament of the Dominion: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Certain acts suspended as regards United States vessels and citizens engaged in taking fish (except shell-fish) on coasts of Quebec, Nova Scotia, and New Brunswick.

1. The act of the Parliament of Canada, passed in the thirty-first year of Her Majesty's reign, chapter sixty-one, intituled "An act respecting fishing by foreign vessels"; and the act of the said Parliament, passed in the thirty-third year of Her Majesty's reign, chapter fifteen, intituled: "An act to amend the act respecting fishing by foreign vessels"; and the act of the said parliament, passed in the thirty-fourth year of Her Majesty's reign, chapter twenty-three, intituled: "An act further to amend the act respecting fishing by foreign vessels"; and the ninety-fourth chapter of the Revised Statutes of Nova Scotia (third series), intituled: "Of coast and deep-sea fisheries"; and the act of the legislature of Nova Scotia, passed in the twenty-ninth year of Her Majesty's reign, chapter thirty-five, amending the same; and the act of the legislature of New Brunswick, passed in the sixteenth year of Her Majesty's reign, chapter sixty-nine, intituled "An act relating to the coast fisheries, and for the preventing of illicit trade," so far as the said acts of the legislatures of Nova Scotia and New Brunswick, respectively, apply to any case to which the said acts of the Parliament of Canada apply, shall be, and are hereby, suspended, as respects vessels and inhabitants of the United States of America engaged in taking fish of every or any kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks of the provinces of Quebec, Nova Scotia, and New Brunswick, as shall also all acts, laws, or regulations (if any) over which the Parliament of Canada has control, which would in any wise prevent or impede the full effect of the said article eighteen.

Fish and fish-oil from United States fisheries to be free.

2. Fish-oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil) being the produce of the fisheries of the United States, shall be admitted into Canada free of duty.

Transit of goods through Canada in bond.

3. Goods, wares, and merchandize arriving at any of the ports of Canada, and destined for the United States of America, may be entered at the proper custom-house, and conveyed in transit, without the payment of duties, through Canada, under such rules, regulations, and conditions for the protection of the revenue as the governor in council may from time to time prescribe; and under like rules, regulations, and conditions, goods, wares, and merchandize may be conveyed in transit, without payment of duties, from the United States through Canada, to other places in the United States, or for exports from ports in Canada.

Carriage of goods in United States' vessels from one part of Canada to another, conditionally.

4. Citizens of the United States may carry in United States' vessels without payment of duty, goods, wares, and merchandize from one port or place in Canada to another port or place in Canada, provided that a portion of such transportation is made through the territory of the United States by land carriage, and in bond, under such rules and regulations as may be agreed upon between the Government of her Majesty and the Government of the United States.

When this act shall come into force.

5. The foregoing sections of this act shall come into force upon from and after a day to be appointed for that purpose by a proclamation, based upon an order of the governor in council, and shall remain in force during the term of years mentioned in article thirty-three of the said treaty.

No. 11.

[31 Vict., Chap. 60, &c., &c.]

DOMINION OF CANADA.

THE FISHERY ACTS.

By a proclamation of the governor-general, dated October 7, 1875, the fishery acts were extended to Prince Edward Island.

Regulations of the governor-general in council, adopted from time to time under these acts, are printed separately for action in the different localities to which they apply, after publication in the Canada Gazette.

31 VICTORIA.

CHAP. 60.—AN ACT for the regulation of fishing and protection of fisheries.

(Assented to 22nd May, 1868.)

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

FISHERY OFFICERS.

1. The governor may appoint fishery officers, whose powers and duties shall be defined by this act and the regulations made under it, and by instructions from the department of marine and fisheries; and every officer so appointed under oath of office, and instructed to exercise magisterial powers, shall be *ex-officio* a justice of the peace for all the purposes of this act and the regulations made under it, within the limits for which he is appointed to act as such fishery officer.

2. Each fishery officer shall take and subscribe the following oath: "I, A. B., a fishery officer in and for the district described in my appointment, do solemnly swear that to the best of my judgment I will faithfully, honestly, and impartially, fulfil, execute, and perform the office and duty of such officer, according to the true intent and meaning of the fisheries act and regulations, and in accordance with my instructions. So help me God."

FISHERY LEASES AND LICENSES.

2. The minister of marine and fisheries may, where the exclusive right of fishing does not already exist by law, issue or authorize to be issued fishery leases and licenses for fisheries and fishing wheresoever situated or carried on; but leases or licenses for any term exceeding nine years shall be issued only under authority of an order of the governor in council.

DEEP-SEA FISHERIES.

3. Every subject of Her Majesty may use vacant public property, such as by law is common and accessory to public rights of fishery and navigation, for the purposes of landing, salting, curing, and drying fish, and may cut wood thereon for such purposes, and no other person shall occupy the same station, unless it shall have been abandoned by the first occupant for twelve consecutive months; and at the expiration of that period any new occupier shall pay the value of flakes and stages, and other property thereon of which he may take possession, and the buildings and improvements may be removed by the original owner; and all subjects of Her Majesty may take bait or fish in any of the harbors or roadsteads, creeks or rivers, subject always, and in every case, to the provisions of this act as affects the leasing or licensing of fisheries and fishing stations; but no property leased or licensed shall be deemed vacant.

COD FISHERY.

4. No one shall use mackerel, herring, or caplin seines for taking codfish, and no codfish seine shall be of a less sized mesh than four cod.

inches in extension in the arms, and three inches in the bunt or bottom of the seine.

WHALE FISHERY.

- Whales, &c., 5. Whales, seals, and porpoises shall not be hunted or killed by means of rockets, explosive instruments, or shells, under a penalty not exceeding three hundred dollars, or at least three months, and not exceeding six months, imprisonment in default of payment.

Penalty.

SEAL FISHERY.

Sedentary fisheries not to be disturbed.

Penalty.

Disputes as to seal fisheries, how settled.

6. During the time of fishing for seals no one shall, with boat or vessel, knowingly or wilfully, disturb, impede or injure any sedentary seal fishery, nor prevent, hinder, or frighten the seals of seals coming into such fishery, under a penalty not to exceed sixty dollars for each offense, or imprisonment in default of payment not exceeding one month; the defendant, being also liable for damages, to be adjudged by any fishery officer or other magistrate before whom the injured party may complain.

2. Disputes between occupiers of seal fisheries concerning limits and the mode of fishing or setting nets shall be decided summarily by any fishery officer or other magistrate, on the report of arbitrators, and any damages assessed or accrued, or that may afterwards arise out of a repetition or continuance of the difficulty ordered to be remedied, may be levied under the warrant of any fishery officer or other magistrate.

SALMON FISHERY.

Close season for salmon.

Proviso as to fly-surface fishing.

In Nova Scotia.

Foul salmon. Fry, parr, or smolt not to be killed.

Size of meshes of salmon nets.

Use of nets regulated.

Proviso as to Ontario, &c.

Boundaries of estuary fishing to be defined. Penalty for fishing above limits, except with a rod and line, &c.

Distance of nets apart, &c.

7. Salmon shall not be fished for, caught, or killed between the thirty-first day of July and the first day of May, in the provinces of Ontario and Quebec, and in the River Restigouche, and between the fifteenth day of August and the first day of March in the province of New Brunswick: *Provided always*, That it shall be lawful to fish for, catch, and kill salmon with a rod and line, in manner known as fly-surface fishing, between the thirtieth day of April and the thirty-first day of August, in the provinces of Ontario and Quebec, and between the first day of March and the fifteenth day of September, in the province of New Brunswick.

2. Salmon shall not be fished for, caught, or killed in the province of Nova Scotia, save as provided and authorized by the laws now in force in that province.

3. Foul or unclean salmon shall not be at any time caught or killed. 4. Salmon fry, parr, and smolt shall not be at any time fished for, caught, or killed, and no salmon or grilse of less weight than three pounds shall be caught or killed; but where caught by accident in nets lawfully used for other fish they shall be liberated alive at the cost and risk of the owner of the fishery, on whom shall in every case devolve the proof of such actual liberation.

5. Meshes of nets used for capturing salmon shall be at least five inches in extension, and nothing shall be done to practically diminish or nullify their size.

6. The use of nets or other apparatus which capture salmon, shall, except in the provinces of Nova Scotia and New Brunswick, be confined to tidal waters, and any fishery officer may determine the length and place of each net or other apparatus used in any of the waters of the Dominion: *Provided*, That nothing contained in this section shall prevent the use of nets for catching salmon in the lakes of the province of Ontario, nor preclude the minister from authorizing, by special fishery licenses or leases, the capture of salmon by nets in fresh-water streams.

7. The minister, or any fishery officer authorized to such effect, shall have power to define the tidal boundary of estuary fishing for the purposes of this act; and above the actual limit so to be laid down it shall be unlawful, without the special fishery lease or license above provided for, to fish for salmon, except with a rod and line, in the manner known as fly-surface fishing, under a penalty not to exceed one hundred dollars, and imprisonment in default of payment for any term not exceeding two months.

8. All nets, or other lawful appliances which capture salmon, shall be placed at distances of not less than two hundred and fifty yards

apart, with used in and mon shall be

9. Any fisheright if deersalmon nets tension; but enlarge any

10. No salmon month of an spawn.

11. Except line, salmon pass or salmon

12. Except for in this a salmon roe,

8. It shall (or "lunge" and the first catch, or kill and line, in *Provided always* such pr trout."

2. Nothing trout for the and using th nor subject t rings or wh taken.

9. It shall between the nor by mean and the first thirty-first d Quebec, nor

2. Gill net of at least i within two m 3. Seines f four inches e

10. Close other fish, m localities.

11. No one volve wholly in this act, o by means wh 2. It shall officer or con market place to his own pr or killed duril by unlawful i date, place, a with the nam each fish was district withi taken place.

apart, without intermediate fishing materials of any kind being set or used in and about any other part of the stream, and drifting for salmon shall be illegal.

9. Any fishery officer may prescribe either in writing or orally on Further distance may be prescribed. salmon nets, or other fishing apparatus, and their dimensions and extension; but gill or float nets shall not be used to lengthen, extend, or enlarge any other kind of fishery. Proviso.

10. No salmon shall be captured within two hundred yards of the mouth of any tributary, creek, or stream which salmon frequent to spawn. As to spawning places.

11. Except in the manner known as fly-surface fishing with a rod and line, salmon shall not be fished for, caught, or killed at any artificial pass or salmon leap, nor in any pool where salmon spawn. Mode of killing at certain places.

12. Except under the authority and for the special purpose provided for in this act, no one shall take, buy, sell, destroy, use, or possess any salmon roe, nor injure any spawning-bed. Salmon spawn.

LAKE AND RIVER TROUT FISHERY.

8. It shall not be lawful to fish for, catch, or kill any kind of trout (or "lunge") in any way whatever between the first day of October and the first day of January; and no one shall at any time fish for, catch, or kill trout by other means than angling by hand with hook and line, in any inland lake, river, or stream, except in tidal waters: Provided always, That as affecting the waters of the province of Ontario such prohibitions shall apply only to the kind known as "speckled trout." Not to be killed in certain ways and at certain seasons.

2. Nothing in the above clause shall prevent the use of small-sized trout for the bona-fide purpose of baiting traps, nor affect the taking and using the same by fishermen as bait for codfishing in tidal waters, nor subject them to penalty if by accident in bona-fide fishing for herrings or white-fish by means of nets trout shall become inclosed or taken. Proviso. Speckled trout.

Exceptions as to fish used for bait, &c.

WHITE-FISH AND SALMON TROUT FISHERY.

9. It shall not be lawful to fish for or catch white-fish in any manner between the nineteenth day of November and the first day of December, nor by means of any kind of seine, between the thirtieth day of May and the first day of August, in the province of Ontario, or between the thirty-first day of July and the first day of December in the province of Quebec; nor shall the fry of the same be at any time destroyed. Close season for white-fish.

2. Gill nets for catching salmon trout or white-fish shall have meshes of at least five inches extension measure, and gill nets will not be set within two miles of any seining ground. Gill nets.

3. Seines for catching white-fish shall have meshes of not less than four inches extension measure. Seines.

BASS AND PICKEREL FISHERY.

10. Close seasons for bass, pike, pickerel (*dorée*), maskinongé, and other fish, may be fixed by the governor in council to suit different localities. Close season.

POSSESSION OF FISH.

11. No one shall, without lawful excuse, the proof of which shall devolve wholly on the party charged, buy, sell or possess any fish named in this act, or parts thereof, caught or killed during seasons when and by means whereof catching or killing the same is prohibited by law. Prohibition to buy, sell, or have in close season.

2. It shall be the duty of every customs officer, excise officer, police officer or constable, clerk of a market, or other party in charge of any market place in any village, town, or city, to seize and forfeit on view to his own proper use, or gift, any fish enumerated in this act, caught or killed during prohibited seasons, or which appears to have been killed by unlawful means; but every such seizure and appropriation, with the date, place, and circumstance thereof, shall be duly reported, together with the name, residence, and calling of the person in whose possession such fish was found, to the fishery officer having jurisdiction over the district within which such seizure, forfeiture, and appropriation have taken place. Certain officers to seize fish exposed for sale in close season.

And report the same.

obstacle or leaps, the use of any invention to catch, kill, or molest fish in the mill-heads and water-courses appurtenant thereto, are hereby forbidden;

7. Bag-nets and trap-nets and fish-pounds are prohibited, except under special licenses for capturing deep-sea fishes other than salmon;

8. It shall not be lawful to fish for, catch or kill salmon, trout (or "lunge") of any kind, maskinongé, winnoniche, bass, bar-fish, pickerel, white-fish, herring, or shad, by means of spear, grapnel hooks, negog, or mishagnus; provided, the minister may appropriate and license or lease certain waters in which certain Indians may be allowed to catch fish for their own use in and at whatever manner and time are specified in the license or lease, and may permit spearing in certain localities;

9. No person shall fish for, catch, kill, buy, sell, or possess the young of any fish named in this act, or in any regulation or regulations under it;

10. Seines for bar-fish shall have meshes of not less than three inches, extension measure;

11. Fishery officers may determine or prescribe the distance between each and every fishery, and shall forthwith remove any fishery which the owner neglects or refuses to remove, and such owner shall be, moreover, liable for a breach of this act, and for the cost and damages of removing the same;

12. Every fascine fishery, with a box-trap (*coffre*) instead of pound, shall have across the outside end of such box (*coffre*) a wire covering or a network, the meshes of which shall be at least one inch square; but this shall not apply to eel wires during autumn;

13. Nets or other fishing apparatus shall not be so used as to impede or divert the course of fish in any small rivers;

14. From the time of low water nearest six of the clock in the evening on every Saturday to the time of low water nearest six of the clock in the morning on every Monday, in tidal waters, and from six of the clock in the evening on every Saturday to six of the clock in the morning of the following Monday, in fresh water, seines, nets, or other apparatus used for catching fish shall be so raised or adapted as to admit of the free passage of fish through, past, or out of the same, for the purpose of affording a free pass from six of the clock on every Saturday evening to six of the clock on every following Monday morning; and during this close time it shall be unlawful to catch fish by such means; and any fish so taken, caught or killed, together with the nets or other apparatus used, shall be forfeited, in addition to the penalties imposed by this act.

INJURIES TO FISHING GROUNDS AND POLLUTION OF RIVERS.

14. Whoever throws overboard ballast, coal, ashes, stones, or other prejudicial or deleterious substances, in any river, harbour or roadstead, or any water where fishing is carried on, or throws overboard or lets fall upon any fishing bank or ground, or leaves or deposits or causes to be thrown, left, or deposited upon the shore, beach, or bank of any river, or upon the beach between high and low water mark, inside of any tidal estuary, or within two hundred yards of the mouth of any salmon river, remains or offals of fish, or of marine animals, or leaves decayed or decaying fish in any net or other fishing apparatus, shall incur for any such offense a fine not exceeding one hundred dollars, or imprisonment for not more than two months; and every person so doing, whether master or servant, and the master or owner of any vessel or boat from which such ballast or offals or other prejudicial substance are thrown, shall severally become liable for each offense; provided, always, that it shall be lawful to bury such remains or offals ashore, beyond high-water mark, and at establishments situated inside of the mouths of rivers for carrying on deep-sea fisheries, to drop the same into perforated boxes or inclosures built upon the beach, or under stage-heads, in such manner as to prevent the same from being floated or drifted into the streams, or to dispose of them in such other manner as may be prescribed by any fishery officer;

2. Lime, chemical substances or drugs, poisonous matter (liquid or solid), dead or decaying fish, or any other deleterious substances, shall not be drawn into, or allowed to pass into, be left or remain in any water frequented by any of the kinds of fish mentioned in this act; and sawdust or mill-rubbish shall not be drifted or thrown into any stream frequented by fish, under a penalty not exceeding one hundred

Certain nets forbidden.

Fish not to be killed in certain ways.

Proviso: as to Indians.

Young of fish not to be taken.

Seines for bar-fish.

Distance between fisheries.

Fascine fisheries with box-traps.

Nets, &c., in small rivers.

Fish to be allowed free passage on Sunday.

And forfeited if then taken.

Penalty for throwing overboard certain substances prejudicial to fisheries.

Proviso: as to the disposal of offal.

Poisonous substances not to be needed.

Mill-rubbish. Sawdust.

Proviso: min- dollars: *Provided always*, That the minister shall have power to exempt
 ater may exempt from the operation of this sub-section, wholly or from any portion of
 any stream, &c. the same, any stream or streams in which he considers that its enforce-
 ment is not requisite for the public interest.

Penalty for 3. Whoever at any time between the first day of June and the thir-
kindling fires in tieth day of September, of any year, kindles, makes or places any fire near
certain places at near any wood, trees, brushwood, or any wild or uncultivated land, at
certain times. any place north of the River or Gulf of St. Lawrence, to the east or
 north of the Saguenay River, or any of the islands below or to the
 eastward of Red Island, within the said river or gulf, whereby the fire
 spreads or extends through standing trees, brushwood or scrub, to a
 distance exceeding one arpent, shall for such offence incur a penalty
 not exceeding fifty dollars, and shall besides be responsible to the
 Crown, or whoever may be the owner of the land, for all damages occa-
 sioned by such fire: *Provided*, That nothing herein contained shall pre-
 vent proprietors or those having licenses to cut timber or wood, from
 burning the wood, trees or brushwood on their own land, or otherwise
 using fire to clear their lands without injury or prejudice to their
 neighbors.

Proviso: as to sioned by such fire: *Provided*, That nothing herein contained shall pre-
burning for clear- vent proprietors or those having licenses to cut timber or wood, from
ance. burning the wood, trees or brushwood on their own land, or otherwise
 using fire to clear their lands without injury or prejudice to their
 neighbors.

MISCELLANEOUS PROVISIONS.

Waters may be 15. The minister may authorize to be set apart, and to be leased, any
set apart for the river or other water for the natural or artificial propagation of fish;
propagation of and any person who willfully destroys or injures any place set apart or
fish. used for the propagation of fish, or fishes therein without written per-
 mission from a fishery officer, or from the holder under lease or license,
 or uses therein any fishing light or other implement for fishing, during
 the period for which such waters are set apart, shall incur a fine not
 exceeding two hundred dollars, or in default of payment, shall be im-
 prisoned for not more than four months:

Penalty for 2. Nothing contained in this act shall preclude the granting by the
trespass. minister of written permission to obtain fish and fish spawns, for pur-
 poses of stocking or artificial breeding, or for scientific purposes;

Licenses to take 3. Lessees or licensees of fisheries shall have no claim to renewal of
spawn, &c. leases or licenses, if in arrears of rent or percentage during four months
 after the same is due, and any lessee or licensee convicted of an infrac-
 tion of this act, or any regulation or regulations under it, shall be liable
 to forfeit his lease or license;

Fishery lessees 4. Special licenses and leases for any term of years may be granted
in arrears. to any party or parties who may wish to plant or form oyster beds in
 any of the bays, inlets, harbours, creeks or rivers, or between any of
 the islands on the coast of Canada; and the holder of any such lease
 or license shall have the exclusive right to oysters produced or found
 on the beds, within the limits of such license, for the term of such
 lease;

Special licenses 5. The minister may authorize to be expended annually any sum appro-
for oyster beds. priated by Parliament for the formation of oyster beds in various waters
 and places found adapted for that purpose, and transplanting oysters,
 and towards restocking exhausted fisheries by natural or artificial
 means, and to improve streams where natural obstructions exist, and
 may authorize the construction, erection or placing of any artificial
 barrier or grating in any stream or river, or in any watercourse, and in
 the channels or beds thereof;

Minister may 6. With a view to protect the oyster beds in different parts of the
expend Parlia- bays and coasts of the Dominion, it shall not be lawful for any person
mentary grant to take oysters, or in any way to injure or disturb such oyster beds,
for making or re- except during times and on terms permitted by regulation or regula-
stocking oyster tions under this act, under a penalty of not more than one hundred
beds. dollars nor less than forty dollars, together with the forfeiture of the
 vessel and all the apparatus employed therein; and in default of pay-
 ment, the party convicted shall be imprisoned for not less than one
 month, nor more than two months;

Protection of 7. Shell-fish fisheries shall be subject to the provisions of this act, and
oyster beds. any regulation or regulations to be made under it.

Penalty for in- juring them.

Shell-fish fish- eries.

FINES AND FORFEITURES.

Penalty in cases 16. Except for offences to which penalties are already attached, each
where no other is and every offender against the provisions of this act, or the regula-
provided. tions under it, shall for each offence incur a fine of not more than

ve power to exempt
from any portion of
ers that its enforce-

7 June and the this
places any fire in
cultivated land, at
ence, to the east of
da below or to the
elf, whereby the fire
wood or scrub, to a
nce incur a penalty
responsible to the
or all damages occa-
contained shall pro-
mber or wood, from
n land, or otherwise
e prejudice to their

nd to be leased, any
propagation of fish;
ny place set apart
without written per-
ence lease or license,
t for fishing, during
shall incur a fine not
ayment, shall be im-

the granting by the
fish spawns, for pu-
tistic purposes;
claim to renewal of
during four months
notified of an infra-
der it, shall be liable

ars may be granted
form oyster beds in
r, or between any of
er of any such lease
rs produced or found
or the term of such

ually any sum appro-
pds in various waters
transplanting system,
natural or artificial
structions exist, and
ing of any artificial
watercourse, and in

ifferent parts of the
wful for any person
rb such oyster beds,
egulation or regula-
than one hundred
the forfeiture of the
d in default of pay-
r not less than one
sions of this act, and

ready attached, each
act, or the regula-
e of not more than

twenty dollars, besides all costs; and in default of payment of each
fine, shall be imprisoned in each case for not less than eight days, and
not exceeding one month; provided, whenever it shall appear to the
satisfaction of the convicting magistrate, that the offense has been
committed in ignorance of the law; and that because of the poverty of
the defendant, the penalty imposed would be oppressive, a discretion-
ary power may be exercised; and any fishery officer or other magistrate
may grant a warrant of distress for the amount of fine and costs im-
posed in any case;

Proviso: dis-
cretionary power
in certain cases.

2. The contravention on any day of any of the provisions of this act, Separate offence
of any regulation made under it, shall constitute a separate offence, on each day.

3. Should any defendant have goods and chattels whereon the costs Distress for pen-
may be levied, the complainant may distrain for the amount under alty, &c.
warrant by any fishery officer, or other magistrate, notwithstanding the
imprisonment of the party convicted and fined;

4. All materials, implements or appliances used, and all fish had in Forfeiture of
contravention to this act or any regulation or regulations under it, articles used in
shall be confiscated to Her Majesty, and may be seized and confiscated contravention of
on view by any fishery officer, or taken and removed by any person for this act.
delivery to any magistrate, and the proceeds of disposal thereof may
be applied towards defraying expenses under this act;

5. One moiety of every fine or penalty levied by virtue of this act, Appropriation
shall belong to Her Majesty, and the remaining half thereof shall be of pecuniary pen-
paid to the prosecutor, together with the costs taxed to him for attend- alities.

6. Her Majesty's share of each fine or penalty and all proceeds derived How to be ap-
from the sale of confiscated articles under this act, shall be paid to the plied.
receiver general through the department of marine and fisheries, and
be applied towards the expenses incurred for the protection of fisher-
ies; and persons aggrieved by any such conviction may appeal by pe-
tition to the minister, who shall have power to remit fines and restore later.
forfeitures under this act.

MODE OF RECOVERY.

17. Each penalty or forfeiture imposed by this act, or regulations Before whom to
made under it, may be recovered, on parole complaint, before any fish- be sued for.
ery officer, stipendiary or other magistrate, in a summary manner on the
oath of one credible witness;

18. Three days shall elapse between the service and the return of sum- Service of sum-
mons to any defendant for the first five leagues, and one day more for mons, &c.
each additional five leagues of the distance between the place at which
the summons is dated and the place of service: *Provided*, That when it
is expedient to proceed against a defendant without delay, any fishery Proviso for
officer or other magistrate may issue a summons, returnable immedi- cases not admit-
ately, to compel the defendant to appear before him forthwith, or may ting delay.
issue a warrant for the apprehension of such defendant simultaneously
with the summons;

19. Penalties incurred under this act, or the regulations made under Limitation of
it, shall be sued for within two years from the commission of the of- suits.
fence;

20. When not otherwise specified, every proprietor or proprietress, Who shall be
owner, agent, tenant, occupier, partner, or person actually in charge, liable.
whether as occupant or servant, shall be deemed to be jointly and sever-
ally liable for penalties or moneys recoverable under any of the pro-
visions of this act or any regulation or regulations under it;

21. No proceeding under this act or under any regulation or regula- No quashing
tions made under it shall be dismissed, and no conviction thereunder for want of form,
shall be quashed for want of form; nor shall any warrant of arrest or &c.
commitment be held void by reason of any defect therein, provided it
therein alleged that the party has been convicted and there is a good
and valid conviction to sustain the same.

POWERS OF FISHERY OFFICERS AND OTHER MAGISTRATES.

22. Any fishery officer or other magistrate may convict upon his Fishery officer
on view of any of the offences, both as infractions and for non-com- may convict on
pliance, punishable under the provisions of this act; and shall remove, view.

- or cause to be removed instantly and detain any materials illegally in use :
2. Any fishery officer or other magistrate may search, or shall grant a warrant to have searched, any vessel or place where there is cause to believe that any fish taken in contravention of this act, or anything used in violation thereof may be concealed ;
3. When any offence under this act is committed in, upon or near any water forming the boundary between different counties or districts, or fishery districts, such offence may be prosecuted before any magistrate in either of such counties or districts, or before the fishery officer for either contiguous fishery district ;
4. In the discharge of his duties any fishery officer, or any other person by him accompanied or authorized to such effect, may enter upon and pass through or over private property without being liable for trespass ;
5. Disputes between parties relative to fishing limits or claims to fishery stations, or position and usage of nets and other fishing apparatus, shall be settled by the local fishery officer ;
6. Gurry-grounds may be designated or defined by any fishery officer ;
7. Any fishery officer, stipendiary magistrate, or commissioned officer of Her Majesty's Navy, on board of any vessel belonging to or chartered by the Canadian Government, employed in the service of protecting fisheries, and each commissioned officer of Her Majesty's Navy serving on board of any vessel cruising and being in the waters, harbours or ports of Canada, for the purpose of affording protection to Her Majesty's subjects engaged in the fisheries, and to enforce any laws relating to such fisheries, shall exercise magisterial powers in all the waters, harbours or ports, and on all the coasts of the Dominion of Canada where for the time being and for the purposes above described they are so engaged, without property qualification, and without taking any oath of office ;
8. Seizures made by any fishery officer, stipendiary magistrate or naval officer, so acting as aforesaid, may be taken for disposal to the nearest or most convenient port where there shall reside any revenue officer or other public officer empowered to dispose of the case ;
9. Whenever it may be impracticable for any fishery officer, stipendiary magistrate or naval officer acting in such capacity, to cause any prisoner or prisoners to be conveyed to, and committed to the nearest common gaol, he shall have power to detain him or them on board of the vessel, or transfer him or them to another vessel for conveyance and delivery at the most convenient place, and with all convenient dispatch, where he or they can be duly committed into the custody of the sheriff or other officer of the county or district in which the common gaol is situated, to which he or they shall be ordered to be committed, and until such prisoner or prisoners shall be so delivered into the immediate custody of any sheriff or gaoler, the fishery officer, stipendiary magistrate or naval officer having him or them in charge, shall have in all parts through which it may be necessary to convey any prisoner or prisoners, the same authority and power over and in regard to such person or persons and to command the aid of any of Her Majesty's subjects in preventing his or their escape, or in retaking him or them in case of escape, as any county or district sheriff or peace officer would have while lawfully conveying a prisoner from one part to another of his own district ;
10. The offence for which any person or persons may be so committed to any common gaol shall always be held to have taken place in the county or district to the common gaol of which the commitment has been actually made.
- Where the offence shall be held to have been committed.
- Governor in council may make fishery regulations.

FISHERY REGULATIONS.

19. The governor in council may from time to time make, and from time to time vary, amend or alter, all and every such regulation or regulations as shall be found necessary or deemed expedient for the better management and regulation of the sea-coast and inland fisheries, to prevent or remedy the obstruction or pollution of streams, to regulate and prevent fishing, to prohibit the destruction of fish and to forbid fishing except under authority of leases or licenses—every of which regulations shall have the same force and effect as if herein contained and en-

acted, notwithstanding any of the provisions of the act, or the term of such other mode in council, to be wise expedient ;

2. The public be sufficient not of a copy of a containing any full and sufficient Canada ;

3. Every offence under this act may be

PROVINCIAL.

20. The following

The act passed (23 Vict., chap. 11) (Consolidated Statutes of fishing acts of the said sixty-thirteen excepted of 7th May, 1859) Statutes of Canada, 1866, and 26th April, 1866, shall continue in force and be deemed or super-

The act passed (23 Vict., chap. 5) of Kegistouche ;

The act passed relating to the

The act passed to encourage the fisheries made and consistent with the provisions of the act in the province of regulation or regulation in every respect to fishery officers appointed to enforce the same.

21. The following

Bonus:ick and N

An act passed (16 Vict., chap. 6) for the prevention

(Chapter 94, Revised Statutes) as amended

Scotia: Provided empowered in this

case the powers by revenue and other forfeitures imposed general through the

towards the fisheries

consolidations under Chapter 95 of the

river fisheries ;

The act (28 Vict.) The Revised Statutes

The act (29 Vict.) The Revised Statutes

The act (29 Vict.) The Revised Statutes

And all regulations and Revised Statutes

acted, notwithstanding that such regulations may extend, vary or alter any of the provisions of this act respecting the places or modes of fishing, or the terms specified as prohibited or close seasons, and may fix such other modes, times or places as may be deemed by the governor in council to be adapted to different localities, or may be thought otherwise expedient;

2. The publication of such regulations in the Canada Gazette, shall be sufficient notice to give legal effect to the same; and the production of a copy of a paper purporting to be "The Canada Gazette," and containing any such regulation or regulations, shall be admitted as full and sufficient evidence of the same in all courts of law or equity in Canada;

3. Every offence against any regulation or regulations made under this act may be stated as in contravention of the fisheries act.

And may there-
by vary certain
provisions of this
act.

Publication and
proof of regula-
tions.

Statute of
fences against
this act.

PROVINCIAL ACTS AND REGULATIONS REPEALED OR CONTINUED.

20. The following acts and parts of acts are hereby repealed :

The act passed by the legislature of the late province of Canada (29 Vict., chap. 11) intituled an act to amend chapter sixty-two of the Consolidated Statutes of Canada, and to provide for the better regulations of fishing and protection of fisheries, and also these several sections of the said sixty-second chapter of the Consolidated Statutes of Canada therein excepted from repeal: Provided always, that the regulations of 7th May, 1859, adopted under chapter 62 of the said Consolidated Statutes of Canada, and relating to fisheries at and around the Magdalen Islands, and the regulations of 4th August, 1866, 9th August, 1866, and 26th April, 1867, adopted under the Statute 29 Victoria, chap. 11, shall continue in force in the provinces of Quebec and Ontario, until amended or superseded by other regulations under this act:

The act passed by the legislature of the province of New Brunswick (23 Vict., chap. 52) intituled an act relating to the fisheries of the county of Restigouche;

The act passed by the said legislature (26 Vict., chap. 6) intituled an act relating to the coast and river fisheries;

The act passed by the legislature (30 Vict., chap. 14) intituled an act to encourage the formation of oyster beds; but any regulation or regulations made under either of the three last mentioned acts, and not inconsistent with the provisions of the present act, shall remain in force in the province of New Brunswick until amended or superseded by regulation or regulations to be made under this act, and shall be subject in every respect to the authority by this act vested in the respective fishery officers appointed under this act, who are hereby empowered to enforce the same.

21. The following acts shall continue in force in the provinces of New Brunswick and Nova Scotia:

An act passed by the legislature of the province of New Brunswick (16 Vict., chap. 69) intituled an act relating to the coast fisheries, and for the prevention of illicit trade;

Chapter 94, Revised Statutes, third series, of the "coast and deep sea fisheries," as amended by subsequent acts of the legislature of Nova Scotia: Provided always, that such fishery officers as may be especially empowered in that behalf by the governor in council, shall also exercise the powers by the said recited acts and chapter of acts vested in revenue and other officers, sheriffs, magistrates, and all penalties and forfeitures imposed under the same shall be paid over to the receiver-general through the department of marine and fisheries to be applied towards the fisheries protection service in like manner as other fines and confiscations under the present act;

Chapter 95 of the Revised Statutes of Nova Scotia, third series, "of river fisheries;"

The act (28 Vict., chap. 35) intituled an act to amend chapter 95 of the Revised Statutes, "of river fisheries;"

The act (29 Vict., chap. 35) intituled an act to amend chapter 94 of the Revised Statutes, "of the coast and deep sea fisheries;"

The act (29 Vict., chap. 36) intituled an act to amend chapter 95 of the Revised Statutes, "of river fisheries;"

And all regulations adopted in pursuance of the said chapter of the said Revised Statutes or of the said acts amending the same shall re-

Acts and parts
of acts repealed.
Can. 29 V. C. 11.

Proviso: as to
certain regula-
tions.

N. B. 23 V. C. 52.

N. B. 26 V. C. 6.

N. B. 30 V. C. 14.
Proviso: as to
regulations un-
der it.

Acts continued
in N. B. and N. S.

N. B. 16 V. C. 69.

N. S. Revised
Stat. C. 94.

Proviso: cer-
tain powers un-
der that act may
be exercised by
fishery officers.

Same, C. 95.

N. S. 28 V. C. 35.

N. S. 29 V. C. 35.

N. S. 29 V. C. 36.

And regula-
tions under them

Proviso: as to the exercise of powers under the said acts.

Fishery officers may perform certain duties.

Fishery officers to exercise powers under Rev. Stat. N. S., chap. 103.

As to penalties under the said acts.

main in force until amended or superseded by any regulation or regulations under this act;

Provided always, that the powers and duties in the above named acts, shall vest in the governor of Canada in council, and the powers and duties belonging to the general or special sessions, and the grand jury, shall, as affects the making of any regulation or regulations, order or orders, be vested in the governor-general in council, and as affecting the appointment and control of fishery inspectors or wardens, and the declaring of exemptions, shall vest in the minister; and any fishery officer or officers appointed under this act shall fulfill the duties of fishery inspectors or wardens, and exercise the functions which by the said above recited chapters and acts attach to justice and sheriffs, for all the purposes of the aforesaid chapters and acts or any such regulation or regulations;

Each and every fishery officer shall also exercise the power and perform the duty assigned to commissioners or overseers of river fisheries by the second section of chapter 103 of the Revised Statutes (third series,) of the province of Nova Scotia;

22. All fines and penalties levied under the several chapters and acts recited, or under any regulation or regulations referred to in the two next preceding sections, shall be disposable in the same manner as is imposed and levied under the present act.

FORMS OF PROCEDURE.

Forms of proceedings under this act.

23. Forms of proceedings, orders and notices used under this act and regulations, may for respective processes be in the forms prescribed in the schedule hereunto annexed, or in any other form; and in other respects the laws relating to summary convictions and orders shall apply to cases under this act.

Short title.

24. This act shall be known and cited as *The Fisheries Act*.

SCHEDULE A.

Form of complaint.

PROVINCE OF

County (or District) of

This day of , 18 :

To J. S., a justice of the peace for the said county (or district):

A. B., of , complains that C. D., of , hath (state the offence briefly in as intelligible terms, with the time and place at which it was committed,) in contravention of the fisheries act: wherefore the complainant prays that judgment may be given against the said C. D., as by the said act provided.

(Signature)

SCHEDULE B.

Summons to defendant.

PROVINCE OF

County (or District) of , 18 :

To C. D., of , &c. :

Whereas complaint has (this day) been made before me that you (state the offence in the words of the complaint, or to the like effect) in contravention of the fisheries act. Therefore you are hereby commanded to come before me, at on the day of at o'clock in the , to answer the said complaint and to be dealt with according to law.

Witness my hand and seal, this day of , 18 .

Justice of the Peace for [L.S.]

PROVINCE OF
County (or District) of

To E. F., of ,

Whereas complaint (summons), and I am one you are committed to custody at o'clock in the morning, on the complaint.

Witness my hand and seal.

PROVINCE OF
County (or District) of

Be it remembered, that

(District), C. D., of

offence briefly and

act; and I adjudge

the thing forfeited under

(B. the complainant)

If the penalty be not

paid penalty and costs

committed to and imprisoned

for the period of

Witness my hand and seal.

Form of warrant of

PROVINCE OF

County (or District) of

To the constable and

of the court

Whereas C. D., of

or that he, &c. (as in

and pay to A. B., &c. (a

penalty or forfeiture

peace officers, or any

of

warrant; and I commit

into your custody, for

, and for so

Witness my hand and seal.

SCHEDULE C.

Subpoena to a witness.

PROVINCE OF
County (or District) of :

To E. F., of , &c.:

Whereas complaint has been made before me that C. D. (state the offence as in the summons), and I am informed that you can give material evidence in the case: Therefore you are commanded to appear before me, at , on the day of , at o'clock in the , to testify what you know concerning the matter of the said complaint.

Witness my hand and seal this day of , 18 .

J. S., [L. S.]
(as in summons.)

SCHEDULE D.

Form of conviction.

PROVINCE OF
County (or District) of :

Be it remembered, that on this day of , 18 , at , in said county (or district), C. D., of is convicted before me, for that he did, &c., (stating the offence briefly and the time and place where committed,) in contravention of the fisheries act; and I adjudge the said C. D. to forfeit (and pay) the sum of (or mention the thing forfeited under this act), to be applied according to law, and also to pay A. B. (the complainant) the sum of for costs:

If the penalty be not forthwith paid add, and the said C. D. having failed to pay the said penalty and costs forthwith after the said conviction, I adjudge him to be committed to and imprisoned in the common gaol of the county (or district) of for the period of .

Witness my hand and seal this day of , 18 .

J. S., [L. S.]
(as in summons.)

SCHEDULE E.

Form of warrant of commitment for non-payment of penalty or forfeiture and costs.

PROVINCE OF
County (or District) of :

To the constable and peace officers of the county (or district) of and the keeper of the common gaol of the said county (or district), at :

Whereas C. D., of , was on the day of 18 , convicted before me, for that he, &c. (as in conviction) and I did thereupon adjudge the said C. D. to forfeit and pay to A. B., &c. (as in conviction); And whereas the said C. D. hath not paid the said penalty or forfeiture and costs: Therefore, I command you, the said constables and peace officers, or any of you, to convey the said C. D. to the common gaol for the of , at , and deliver him to the keeper thereof with this warrant; and I command you, the said keeper of the said gaol, to receive the said C. D. into your custody, and keep him safely imprisoned in the said gaol for the space of , and for so doing this shall be your sufficient warrant.

Witness my hand and seal, this day of , 18 .

J. S., [L. S.]
(as in summons.)

38 VICTORIA.

CHAP. 33.—AN ACT to amend "The Fisheries Act."

(Assented to 8th April, 1875.)

Preamble.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Subs. 1 of s. 7, of 31 V., c. 60, repealed.

1. The first sub-section of the seventh section or the act passed in the thirty-first year of Her Majesty's reign, and known as "The Fisheries Act," is hereby repealed, and the following shall be substituted in lieu thereof, that is to say:

Close season for salmon.

"7. Salmon shall not be fished for, caught, or killed, between the thirty-first day of July and the first day of May, in the Provinces of Ontario and Quebec, and in the river Restigouche; nor between the fifteenth day of August and the first day of March, in the Provinces of New Brunswick and Nova Scotia; Provided always, that it shall be lawful to fish for, catch and kill salmon with a rod and line, in the manner known as fly-surface fishing, between the thirtieth day of April and the thirty-first day of August, in the Provinces of Ontario and Quebec, and between the first day of February and the fifteenth day of September, in the Provinces of New Brunswick and Nova Scotia."

Subs. 2 repealed.

2. The second sub-section of the seventh section is hereby repealed, and the third and following sub-sections of the said seventh section shall be read as the second and following sub-sections of the said seventh section of the said act.

Repeal of part of 31 V., c. 60, continuing acts hereby repealed.

3. So much of the twenty-first section of the said act as continues in force in the Province of Nova Scotia, the Revised Statute of Nova Scotia "Of River Fisheries," and certain acts of the legislature of the Province of Nova Scotia amending the same, as in the next section mentioned, and all regulations adopted in pursuance of the said chapter of the said Revised Statutes, or of the said acts amending the same, are hereby repealed.

Acts of N. S. repealed.

4. The following statutes of the legislature of Nova Scotia are hereby repealed, that is to say:

Chapter ninety-five of the Revised Statutes of Nova Scotia, titled "Of River Fisheries."

The act (twenty-eighth Victoria, chapter thirty-five) intitled "An act to amend chapter ninety-five of the Revised Statutes 'Of River Fisheries.'"

The act (twenty-ninth Victoria, chapter thirty-six) intitled "An act to amend chapter ninety-five of the Revised Statutes 'Of River Fisheries.'"

Saving clause.

But the repeal of these acts shall not revive any act or provision of law repealed by such acts or any of them, or prevent the effect of any saving clauses therein, or affect any offence committed, penalty, or liability incurred, right acquired, or act done before such repeal, as to which the said acts and any regulations made under them shall remain in force.

36 VICTORIA.

CHAP. 65.—AN ACT for the better protection of navigable streams and rivers.

(Assented to 23d May, 1873.)

Preamble.

Whereas it is expedient to provide for the better protection of navigable streams and rivers, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

No sawdust, &c., to be thrown into navigable streams.

1. From and after the passing of this act no owner nor tenant of a saw-mill, nor any workman therein, nor other person or persons who ever, shall throw or cause to be thrown, or suffer or permit to be thrown, any sawdust, edgings, slabs, bark, or rubbish of any description whatsoever, into any navigable stream or river, either above or below the point at which such stream or river ceases to be navigable.

Penalty for contravening this act.

2. Any person or persons violating the preceding sections shall be liable, for the first offence, to a fine of not less than twenty dollars and for the second and each subsequent offence to a fine of not less than

fifty dollars, which shall be paid in full at once, in the manner as provided.

3. It shall be the duty of the collector of customs to report on the conduct of the fishery, from time to time, in the terms of this act, and to this act, have and purposes by "The Fisheries Act." 4. Provided, always, that the governor in council may, at any time, by proclamation, in any stream or river, or in any part of this act, in whole or in part, to revoke the

FISHERIES.

CH.

SECTION—

1. Herring not to be taken between 20th Oct. and 1st Nov. how to be used. 2. Time for use of nets. 3. Injuries to nets and gear. 4. Herring not to be taken between 20th April and 1st May. 5. Spearfishing or sweeping for salmon unlawful. 6. Stake, seine or weir. 7. Mill-dams and other obstructions. 8. Mesh of salmon nets. 9. Salmon bought or sold forfeited.

1. No person shall contravene any such contrivance or of its dependence therein, at any time of April in any place for the catching and forthwith contained shall prevent and customary manner in a cove, inlet, or other place. 2. No person shall on the 1st day of April in any bays, harbours, or scales of salmon, or less than one inch at least, or half an inch; nor shall any person behind any other net or taking such herring or mesh.

3. No person shall use a net or seine, the property of this colony or his district therein, or receive the same.

4. No person shall on the 1st day of October in any year, or at any time, any settlement situated near Cape Breton, or within the said limits.

fifty dollars, which fine shall be recoverable summarily in the same manner as provided for the recovery of penalties by "The Fisheries Act."

3. It shall be the duty of the several fishery officers to examine and report on the condition of the navigable streams and rivers under this act, from time to time, and to prosecute all parties contravening the act. Fishery officers to enforce this act.

4. Provided, always, that when it can be shown to the satisfaction of the governor in council that the public interest would not be injuriously affected thereby, the governor in council shall have power, from time to time, by proclamation in the Canada Gazette, to declare any such stream or river, or part or parts thereof, exempted from the operation of this act, in whole or in part, and shall also have power, from time to time, to revoke the same.

Exemptions by proclamation in certain cases.

No. 12.

FISHERY LAWS OF NEWFOUNDLAND, 1879.

CONSOLIDATED STATUTES.

CHAPTER 102.—Of the Coast Fisheries.

SECTION—

1. Herring not to be caught between 20th Oct. and 12th April. Seine, how to be used.
2. Time for use of and size of net.
3. Injuries to nets and seines.
4. Herring not to be hauled for bait between 20th April and 20th October.
5. Spearfishing or sweeping with nets or seines for salmon above tidal waters unlawful.
6. Stake, seine or weir, unlawful.
7. Mill-dams and other obstructions.
8. Mesh of salmon net.
9. Salmon bought or sold in close time forfeited.

SECTION—

10. Distance between salmon nets.
11. Time for taking salmon.
12. Penalties.
13. Weir, &c., erected contrary to law may be destroyed.
14. Forfeitures and penalties, how recovered.
15. Appropriation of same.
16. Convictions not to be quashed for want of form.
17. Governor may appoint superintendent of fishery and fishery wardens.
18. Reservation of treaty rights.

I. No person shall haul, catch, or take herrings by or in a seine or other such contrivance on or near any part of the coast of this colony or of its dependencies, or in any of the bays, harbors, or other places therein, at any time between the 20th day of October and the 25th day of April in any year, or at any time use a seine or other contrivance for the catching and taking of herrings, except by way of shooting and forthwith hauling the same: *Provided*, that nothing herein contained shall prevent the taking of herrings by nets set in the usual and customary manner, and not used for inbarring or inclosing herrings in a cove, inlet, or other place.

Herring not to be caught between 20th Oct. and 12th April. Seine, how to be used.

This section repealed, 42 Vic., Ch. ii, § 2.

II. No person shall, at any time between the 20th day of December and the 1st day of April in any year, use any net to haul, catch, or take herrings on or near the coasts of this colony or of its dependencies, or in any bays, harbors, or other places therein, having the meshes, or scales of such net less than two inches and three-eighths of an inch at least, or having any false or double bottom of any description; nor shall any person put any net, though of legal size mesh, upon or behind any other net not of such size mesh, for the purpose of catching or taking such herring or herring fry passing a single net of legal mesh.

Time for use of and size of net.

III. No person shall willfully remove, destroy, or injure any lawful net or seine, the property of another, set or floating on or near the coast of this colony or its dependencies, or any of the bays, harbors, or other places therein, or remove, let loose, or take any fish from such seine net.

Injuries to nets and seines.

IV. No person shall, between the 20th day of May and the 20th day of October in any year, haul, catch, or take herrings or other bait for bait, within one mile measured by the shore or across the water, in any settlement situate between Cape Chapeau Rouge and Point Amegee, near Cape Ray; and any person so hauling, catching or taking, within the said limits, may be examined on oath by a justice, officer

Herring not to be hauled for bait between 20th April and 20th October.

Amended 39 Vic., Ch. 6, § 11.

of customs, or person commissioned for the purpose, as to whether the herrings or other bait are intended for exportation or otherwise, and on refusal to answer, or answering untruly, such person shall, on conviction, be subject to the provisions of the twelfth section of this chapter.

Spearing or sweeping with nets or seines for salmon above tidal waters unlawful.
 V. No person shall, by spearing or sweeping with nets or seines, take any salmon, grilse, par, or trout, in any bay, river, stream, cove, or water-course, above where the tide usually rises and falls, or in any pond or lake.

Stake, seine, or weir unlawful.
 Repealed 38
 Vic., Ch. 7, § 7.
 VI. No stake, seine, weir, or other contrivance for taking salmon, except nets set or placed across, shall be set or placed in any river, stream, cove, lake, or watercourse. No net shall extend more than one third of the distance in a straight line across, and all nets shall be set only on one side of such river, stream, cove, lake, or watercourse.

Mill-dams and other obstructions.
 Repealed 38
 Vic., Ch. 7, § 2.
 VII. No person shall construct any mill-dam, weir, rack, frame, train-gate, or other erection or barrier in or across any river, stream, cove, lake, or watercourse, so as to obstruct the free passage of salmon, grilse, par, trout, or other fish resorting thereto, for the purpose of spawning; and all mill-dams or other erections placed on, over or across any water-course, river or stream resorted to by fish for the purpose of spawning, shall have a waste gate opening, or slope sufficient to constitute a proper and sufficient fish way, which shall be kept in repair by the owner. No person shall permit any sawdust or mill rubbish to be cast into any such river, stream, cove, lake or watercourse.

Mesh of salmon net.
 Repealed 38
 Vic., Ch. 7, § 7.
 VIII. No person shall use any net for taking salmon, the meshes, or scales of which are less than four inches and a half inch.

Salmon bought or sold in close time forfeited.
 IX. No person shall buy or sell or have in his possession salmon, knowing the same to have been taken contrary to the provisions of this chapter, and every salmon so taken, bought or sold, shall be declared forfeited to the complainant by any justice.

Distance between salmon nets.
 X. No net shall be moored or set in any harbor, cove, creek or estuary or on or near any part of the coast of this colony or its dependencies for the purpose of taking salmon nearer to any other net moored or set for a like purpose than one hundred yards for a single net, and three hundred yards for a double net or fleet of nets.

Time for taking salmon.
 XI. No salmon shall be taken before the first day of May or after the tenth day of September in any year: Provided that if the timeline in this section shall be found to operate injuriously in any part of the island, the governor in council may appoint any other time or times, and such time or times shall be as binding on all persons as if specified mentioned herein.

Penalties.
 Amended 42
 Vic., Ch. II, § 3.
 XII. Any person who shall violate any of the provisions of this chapter shall be subject to a penalty not exceeding two hundred dollars for all seines, nets, and other contrivances used contrary to the provisions of this chapter shall be forfeited, and may be seized and detained until the trial of the offender by any justice, sub-collector of customs, preventive officer, fishery warden, or constable, on view, or by virtue of a warrant issued by such justice, sub-collector or preventive officer. If the complaint made on oath to be administered by either of them, and on conviction, the same may be declared forfeited and ordered to be sold at public auction.

Weir, &c., erected contrary to law may be destroyed.
 XIII. Any justice, sub-collector, preventive officer, fishery warden, or constable, may, on view, destroy any weir, rack, frame, train-gate, or other erection or barrier, used or erected contrary to the provisions of this chapter, or the same may be destroyed by virtue of a warrant issued by any justice, sub-collector, or preventive officer, upon complaint made on oath to be administered by either of them.

Forfeiture and penalties, how recovered.
 XIV. All forfeitures and penalties imposed by this chapter shall be recovered with costs in a summary manner before any justice, or where purpose such justice may summon or arrest the offender, and compel witnesses, by summons or warrant, to appear before him; and upon conviction of the offender, such justice shall cause all seines, nets, and other contrivances illegally used, to be sold by public auction, where permitted under the provisions of the preceding sections of this chapter, destroyed; and in default of the payment of any penalty imposed, and costs, such justice shall issue his warrant and cause the offender to be arrested and imprisoned for any period not exceeding twenty days.

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CAP. IX.—

SECTION—

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XV. All penalties and forfeitures imposed by this chapter, and the proceeds thereof, shall be paid to the party informing against and prosecuting the offender to conviction. Appropriation of same.

XVI. No proceeding or conviction by any justice or other under this chapter shall be quashed or set aside for any informality, provided the same shall be substantially in accordance with the intent and meaning of this chapter. Convictions not to be quashed for want of form.

XVII. The governor in council may appoint the collector of revenue for Labrador, or other person, to be superintendent of the fisheries on the coast of this island and its dependencies, and may also appoint fishery wardens, and prescribe their duties for the purpose of this chapter. Governor may appoint superintendent of fishery and fishery wardens.

XVIII. Nothing in this chapter shall affect the rights and privileges granted by treaty to the subjects of any state or power in amity with Her Majesty. Reservation of treaty rights.

ANNO TRICESIMO SEXTO VICTORIÆ REGINÆ.

CAP. IX.—AN ACT to regulate the prosecution of the seal fishery.

(Passed 5th May, 1873.)

This act repealed, 42 Vic., Ch. 1, § 1.

SECTION—

1. Steamer not to leave before 10th March; penalty, &c.
2. Sailing vessels not to leave before 5th March; penalty, &c.
3. Seals not to be killed before 12th March; penalty, &c.; proviso.
4. Action not to be brought after 12 months.
5. Custom-house officers not to clear

SECTION—

- steamer before 9th March, nor sailing vessel before 4th March.
6. Mode of recovery of fine; appropriation of do.
7. Persons aggrieved may apply to supreme court; proviso.
8. When act to come into operation.

Whereas it is expedient to make certain regulations touching the prosecution of the seal fishery:

Be it therefore enacted by the governor, legislative council, and assembly, in session convened:

I. No steamer shall leave port for the seal fishery before the tenth day of March, in any year, under the penalty of two thousand dollars, to be recovered from the owner or other person on whose account the steamer is sent to the seal fishery.

II. No sailing vessels shall leave port for the seal fishery before the fifth day of March, in any year, under the penalty of four hundred dollars, to be recovered from the owner or other person on whose account same vessel shall be sent to such fishery.

III. No seals shall be killed by the crew of any steamer or sailing vessel prosecuting the said fishery before the twelfth day of March, in any year, under a penalty of four dollars for every seal so killed, to be recovered from the owner or other person as aforesaid, and from the crew of said vessel, respectively: Provided, in the case of the owner or persons as aforesaid, that such owner or other person received no seals with notice or knowledge that the same had been killed before the twelfth day of March.

IV. No action shall be brought by any person to recover any penalty provided by this act after twelve months from the time such penalty shall have been incurred.

V. No officer of Her Majesty's customs in this colony shall clear any steamer for a sealing voyage before the ninth day of March, nor any sailing vessel on such voyage before the fourth day of said month in any year.

VI. All penalties incurred under the provisions of this act shall be paid and recovered in a summary manner before a stipendiary magistrate by any person who may sue for the same; one-half of such penalty to go to the party who shall sue for and prosecute the same, and the remainder to the receiver general for the use of the public hospitals.

VII. If any person shall feel himself aggrieved by any judgment of a stipendiary magistrate, under this act, he shall have liberty to appeal from the then next sitting of Her Majesty's supreme court, at St. John's; provided notice of the same be given to the magistrate

Preamble.

Steamer not to leave before 10th March.
Penalty, &c.

Sailing vessel not to leave before 5th March.
Penalty, &c.

Seals not to be killed before 12th March.
Penalty, &c.
Proviso.

Action not to be brought after 12 months.

Custom-house officers not to clear steamer before 9th March, nor sailing vessel before 4th March.

Mode of recovery of fine.
Appropriation of fine.

Persons aggrieved may apply to supreme court.
Proviso.

within twenty-four hours after such judgment shall have been delivered, and within five days thereafter recognizances or other security with or without sureties at the option of such magistrate, shall be entered into to prosecute the same without delay, and pay such amount as may be awarded with costs.

When act to VIII. This act shall not come into operation until the first day of January, in the year one thousand eight hundred and seventy-four.

ANNO TRICESIMO OCTAVO VICTORIÆ REGINÆ.

CAP. VII.—AN ACT to amend title twenty-seven, chapter one hundred and two of the Consolidated Statutes, entitled "Of the Coast Fisheries."

(Passed 17th April, 1875.)

SECTION—

1. Contrivances for taking salmon.
2. Extent of mill-dam, &c.
3. Rubbish, &c., not to be thrown into rivers, &c.
4. Meshes of salmon nets, &c.

SECTION—

5. Governor in council may make prohibitions.
6. Penalty for violation of act; forfeiture.
7. Repealing clause.

Be it enacted by the governor, legislative council and assembly, in legislative session convened, as follows:

Contrivances for taking salmon.

I. No engine, machine, or contrivance whatsoever, for taking salmon shall be set or placed in any river, stream, lake or water-course, except nets set from the sides and extending not more than one-third of the width of the water, in a straight line across, so as to leave the middle third part of the water free for the passage of salmon.

Extent of mill-dam, &c.

II. No mill-dam, weir, rack, frame, traingate, or other erection or barrier, shall be erected in or across any river, stream, lake or water-course, to a greater distance than one-third of the width of the water, so as to leave the middle third part of the water free for the passage of salmon.

Rubbish, &c., not to be thrown into rivers, &c.

III. No sawdust or mill-rubbish shall be cast into any river, stream, lake or watercourse.

Meshes of salmon nets, &c.

IV. After the first day of May, which will be in the year of our Lord one thousand eight hundred and seventy-six, no net shall be used for taking salmon the mokes, meshes, or scales of which shall be less than six inches.

Governor in council may make prohibitions.

V. The governor in council may, by proclamation to be published in the Royal Gazette, at any time prohibit nets for taking salmon from being set in any or all rivers, except the Humber, Gander, Little Humber, and Exploits Rivers, for such time as may be deemed expedient, and such proclamation may define the limits of such rivers at their mouths.

Penalty for violation of act.

VI. Any person violating any of the provisions of this act, or of any proclamation issued by virtue of this act, upon conviction before a justice of the peace, shall be subject to a penalty not exceeding five dollars, or imprisonment for any period not exceeding one month; and all seines, nets, and other contrivances used contrary to the provisions of this act or such proclamation as aforesaid, shall be forfeited, and nets of a smaller moke, mesh or scale, than provided in section IV, used as aforesaid, after the first day of May which will be in the year of our Lord one thousand eight hundred and seventy-six, shall be destroyed.

Repealing clause.

VII. The sixth, seventh, and eighth sections of title twenty-seven of the "Fisheries," chapter one hundred and two, entitled "Of the Coast Fisheries," of the Consolidated Statutes, are hereby repealed.

SECTIONS—

1. Cap. 102, sec. 1, Code.
2. Sec. 4 of cap. 102, Code.
3. Squids not to be taken.

Be it enacted by the legislative session

I. The first section of the Consolidated Statutes is hereby repealed from the fifth day of April

II. The fourth section of the Consolidated Statutes is hereby repealed from the

III. No person shall be liable for the same as shall be provided in the

IV. No person shall be liable for the same as shall be provided in the

V. Any person violating the same shall be liable for the same as shall be provided in the

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ANNO TRICESIMO NONO VICTORIÆ REGINÆ.

CAP. VI.—AN ACT to amend the law relating to the coast fisheries.

(Passed 26th April, 1876.)

SECTIONS—

1. Cap. 102, sec. 1, Con. Statutes, amended.
2. Sec. 4 of cap. 102, amended.
3. Squids not to be taken with seines, &c.

SECTIONS—

4. Herring not to be taken within certain times.
5. Penalty.

Be it enacted by the governor, legislative council and assembly, in legislative session convened, as follows:

I. The first section of chapter one hundred and two of the Consolidated Statutes is hereby amended, by substituting the words "twenty-fifth day of April" for the "twelfth day of April."

Cap. 102, sec. 1, Conol. Statutes, amended.

Repealed 42 Vic., ch. II, § 2. Sec. 4 of Cap. 102, amended.

II. The fourth section of the said chapter is hereby amended by substituting the words "tenth day of May" for "twentieth day of April."

Squids not to be taken with seines, &c.

III. No person shall, at any time, haul, catch, or take squids, with, or by means of any seine, bunt, or other such contrivance.

Herring not to be taken within certain times.

IV. No person shall, between the hours of twelve o'clock on Saturday night and twelve o'clock on Sunday night, haul or take any herring, capelin or squids, with nets, seines, bunts, or any such contrivance, or set or put out any such net, seine, bunt, or contrivance for the purpose of such hauling or taking.

Amended 40 Vic., ch. 13, § 1. Penalty.

V. Any person violating the provisions of this act shall be subject to the same penalties as are provided by section twelve of the said chapter.

ANNO QUADRAGESIMO VICTORIÆ REGINÆ.

CAP. XIII.—AN ACT for the amendment of an act entitled "An act to amend the law relating to the coast fisheries."

(Passed 26th April, 1877.)

SECTION 1.—39 Vic., cap. 6, sec. 4, to apply to squid jigging.

Whereas it is expedient to amend the act thirty-nine Victoria, chapter six, entitled "An act to amend the law relating to the coast fisheries," in manner hereinafter provided.

Preamble.

Be it enacted by the governor, legislative council and assembly, in legislative session convened, as follows:

Enacting clause.

I. That the fourth section of the said recited act shall be held to include and apply to the jigging of squids, and to the use of any contrivance whatever, and to any mode of taking and obtaining fish for bait.

39 Vic., cap. 6, sec. 4, to apply to squid jigging.

ANNO QUADRAGESIMO PRIMO VICTORIÆ REGINÆ.

CAP. XVI.—AN ACT respecting the fishery of lobsters.

(Passed 16th April, 1878.)

SECTION

1. Governor may, after enquiry and notice, restrict taking of lobsters; and provide for enforcing orders; penalty: may vary orders, or revoke.
2. Orders alterations, and revocations.

SECTION

1. to be published in Gazette and other paper.
3. Summary jurisdiction; distress; imprisonment.
4. Short title.

Be it enacted by the governor, legislative council and assembly, in legislative session convened:

Enacting clause.

I. The governor in council may, after such public enquiry and notice, as shall be deemed expedient from time to time, by order, restrict or prohibit, either entirely or subject to any exceptions and regulations, the fishing for and taking of lobsters within any district or parts of districts in this colony named in the order, during such period of years or during such period either in every year or in such number of

Governor may, after enquiry and notice, restrict taking of lobsters;

VI. No action shall be brought by any person to recover any penalty provided by this act, after twelve months from the time such penalty shall have been incurred.

Limitation.

VII. No officer of Her Majesty's customs in this colony shall clear any steamer for a sealing voyage before the ninth day of March, or any sailing vessel for a sealing voyage before the last day of February: Provided, that in the event of either of these days falling on Sunday, such vessels may be cleared on the preceding Saturday.

Times of clearance.

Proviso; Sunday.

VIII. All penalties incurred under the provisions of this act shall be sued for and recovered in a summary manner before a stipendiary magistrate by any person who may sue for the same; one-half of such penalty shall go to the party who shall sue for and prosecute the same, and the remainder to the receiver general for the use of public hospitals.

Recovery of penalties.

Appropriation.

IX. If any person shall feel himself aggrieved by any judgment of a stipendiary magistrate, under this act, he shall have liberty to appeal therefrom to the then next sitting of Her Majesty's supreme court at St. John's: Provided, that notice of the same be given to the magistrate within twenty-four hours after such judgment shall have been delivered, and within five days thereafter recognizances, or other security, with or without sureties, at the option of such magistrate, shall be entered into to prosecute the same without delay, and pay such amount as may be awarded, with costs.

Appeal.

Proviso.

Recognizance.

ANNO QUADRAGESIMO SECUNDO VICTORIÆ REGINÆ.

CAP. II.—AN ACT to amend the law relating to the coast fisheries.

(Passed 19th March, 1879.)

SECTION—

1. No herrings to be taken between 20th of October and the 18th of April, except in nets in the customary manner.
2. Sec. 1 of cap. 102, of title 27, Consolidated Statutes, and section 1 of act 39 Vic. repealed.
3. Section 12 of chapter 102, of title 27 of Consolidated Statutes, amended.
4. Owner, &c., conveying herrings in

SECTION—

- bulk between 20th October and 18th April, shall be deemed to have caught such herring contrary to law.
5. Power to justices, sub-collectors, &c., to board vessels suspected; penalty for obstructing justices or other officers in discharge of duty.
6. Appeal to the supreme court in St. John's or on circuit.

Be it enacted by the governor, legislative council and assembly, in legislative session convened, as follows:

Enacting clause.

I. No person shall haul, catch or take herrings by or in a seine or other such contrivance, on or near any part of the coast of this colony or its dependencies, or in any of the bays, harbors or other places therein, at any time between the twentieth day of October in any year, and the eighteenth day of April in the following year, or at any time in a seine or other contrivance for the catching and taking of herrings, except by way of shooting and forthwith hauling the same: Provided, that nothing herein contained shall prevent the taking of herrings by nets set in the usual and customary manner, and not used for in-barring or enclosing herrings in a cove, inlet, or other place.

No herrings to be taken between the 20th of October and the 18th of April, except in a customary manner.

II. Section one of chapter one hundred and two, of title twenty-seven, of the Consolidated Statutes, entitled "of the coast fisheries," and section one of an act passed in the thirty-ninth year of the reign of Her present Majesty, entitled "An act to amend the law relating to the coast fishes," are hereby repealed.

Section 1, of chapter 102, of title 27, Consolidated Statutes, and section 1 of act 39 Vic., repealed.

III. Section twelve of chapter one hundred and two, title twenty-seven, of the Consolidated Statutes, is hereby amended, by substituting the words "two hundred dollars" for the words "fifty dollars."

Sec. 12 of cap. 102, of title 27, of Consolidated Statutes, amended.

IV. The owners, masters, and other persons managing or controlling vessels conveying herrings in bulk between the twentieth day of October in any year and the eighteenth day of April in the following year, shall be deemed to have hauled, caught, or taken such herring contrary to the provisions of chapter one hundred and two of the Consolidated Statutes, as amended by the said above recited act, thirty-third Victoria, chapter six, and by this act, unless such owner, master,

Owner, &c., conveying herrings in bulk between 20th October and 18th April, shall be deemed to have caught such herring contrary to law.



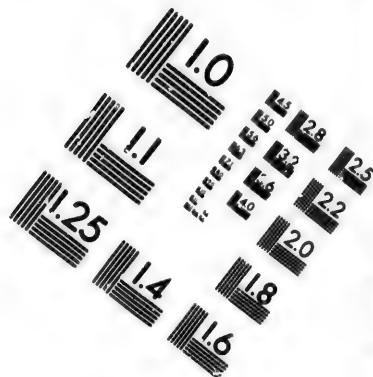
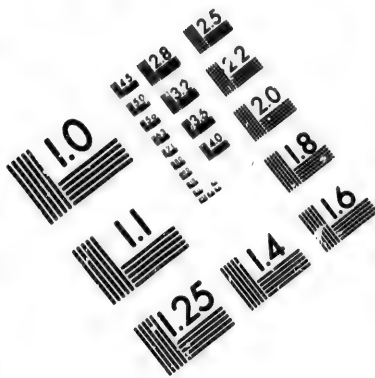
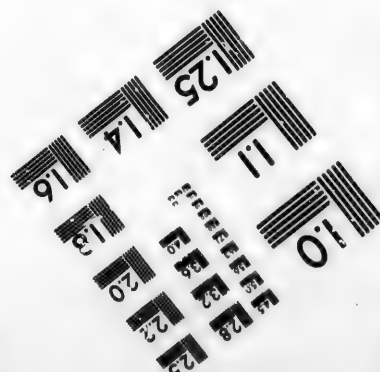
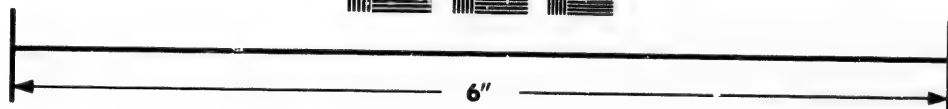
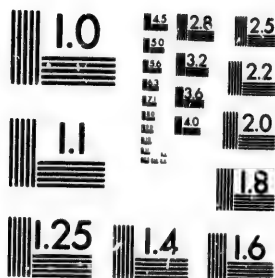


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or other person aforesaid shall make proof to the contrary before a justice of the peace.

Power to justices, sub-collectors, &c., to board vessels suspected;

V. Any justice of the peace, sub-collector of customs, preventive officer, fishery warden, or constable, may board any vessel suspected of carrying herrings in bulk between the twentieth day of October in any year, and the eighteenth day of April in the following year; and in case any such justice, sub-collector, preventive officer, fishery warden, or constable, shall make signal to any vessel suspected as aforesaid, from any vessel employed by the government, by dipping the ensign at the main peak three times, and firing a gun, it shall be the duty of the owner, master or person managing or controlling such vessel so signalled, to heave to such vessel until such justice, sub-collector, preventive officer, fishery warden, or constable, shall have boarded and examined such last-named vessel; and in case of such master, owner, or person managing or controlling as aforesaid such last-named vessel omitting so to heave her to, or to afford facilities for such justice, sub-collector, preventive officer, fishery warden, or constable, boarding such vessel, or obstructing such justice, sub-collector, preventive officer, fishery warden, or constable, boarding or examining any such vessel, he shall be subject to a penalty of five hundred dollars, to be recovered with costs in a summary manner before a justice of the peace, and in case default shall be made in the payment of such penalty, such justice shall issue his warrant and cause such offender to be imprisoned for a period not exceeding thirty days.

Penalty for obstructing justices or other officers in discharge of duty.

Appeal to the
supreme court in
St. John's or on
circuit.

VI. If any person shall feel himself aggrieved by any order or judgment of such justice under this act, or under the said chapter, he shall have liberty to appeal to the Supreme Court in St. John's or on circuit, upon giving sufficient security for the due performance of such order or judgment, if confirmed, and for the payment of all costs, and to prosecute the said appeal.

Depositions of James L. Anderson, James D. Norwood, Peter Tibboda, James Challow and Charles Dagle, taken in relation to the trouble between the Canadian and American fishermen at Aspee Bay, Cape Breton.

GLOUCESTER, *Sept. 3, 1879.*

I, James L. Anderson, of Gloucester, Mass., and master of the schooner Cadet, of Gloucester, do, on oath, depose and say that I left Gloucester on the 7th of June, 1874, bound for Aspee Bay, Cap Breton, to take squid. My vessel was fitted and furnished with a seine for the taking of squid, as I considered that under the provisions of the Treaty of Washington I had the right to take fish of any kind within three miles of the shores of the Dominion, and also to use seines or other apparatus for the purpose. I arrived at Aspee Bay on the 20th of June; the American schooner Bay State, Capt. Goodwin, arrived the same day. He was fitted with a seine for the purpose of taking squid. The inhabitants of Aspee Bay came off to my vessel, and seeing the seine on deck, asked me what I intended to do with it; I told them that it was for the purpose of taking squid; they then left my vessel and went on shore. The next morning I went on shore and was met by a fisherman named Gwin, who informed me that the fishermen of the place had consulted together and had made up their minds that no seine should be set in the bay, and if it was attempted they would cut it up and destroy it, and that they would serve me the same.

He gave as a reason for this that they believed the using of the seine would drive away the squid and deprive them of bait for their own fisheries, and ruin their business of jigging squid. I explained to them that squid had been seined in Chelabuco for several years with no more perceptible decrease of the squid than when they were caught by jigs; that the same amount of squid would be taken from the water by the jigs, as there are some two hundred men who fish for squid at that place. I found that it was useless to argue, as every time I went on shore the threats were repeated, and that they would be carried out.

I then attempted to compromise by offering to pay them for all the squid I might take in the seine, at the same rate as if they caught them with jigs, and divide the money among them equally. They said that if my seine was used in the bay that I would establish a precedent for seining there, and other vessels would not then be prevented, after one had been allowed to seine. Finding I could not use my seine, and knowing that if it was cut up I should not have it to use in other places, and be deprived of the means of getting my cargo, I felt obliged to give it up. When the schooner came into the bay there was a large fleet of bankers, and if I could have used my seine, I could have supplied every vessel with bait and have also loaded my own vessel with squid to sell the vessels on the banks. For ten successive days the bay

was swarming with squid, but not one would take the hook, and the people could not take any.

All of the vessels lying there were obliged to leave without obtaining any bait, and I left also, for Chettihaup; failing to find squid there, I returned to Aspee Bay on the 21st of July, and found squid in the bay that at that time would take the hook. I commenced buying of the fishermen, having over sixty boats with 180 men employed. I paid for this lot of squid \$561.00 in cash, getting about two-thirds of the cargo. This cargo I carried to St. Pierre and sold the squid for 6½ francs per hundred to the Jersey fishermen. In a week's time I came back to Aspee Bay and found squid plenty in the bay, but they would not take the hook. I could have taken all the squid I wanted if I could have used my seine. I remained three days, and finding that I could not obtain any squid, as they would not bite, I left the bay, and I then started for Newfoundland, and in the dense fog the current set the vessel on the Little Mignelon, where she was lost. My loss or being deprived of the use of my seine on my first trip would be \$5,000, as for this season I could have loaded my vessel in three days on the first trip and would have had them in St. Pierre's at least three weeks ahead of any other baiter, and as the squid failed at St. Pierre this season, I could have got \$1.50 per hundred for them. The cargo I carried there three weeks later I got \$1.25 per hundred for. I should have been at no expense in buying the squid, as my crew could have set the seine and handled the fish; on my second visit I paid the people 561 dollars for a partial cargo, and the third trip I could have seined my cargo, but was not allowed to and the squid not biting, I could not purchase from the people.

My third trip, by being so deprived, I suffered a loss of at least 2,000 dollars. The delay, the uncertainty, and the consequent waste of time, and the continued expense of my vessel and crew obliging me to cruise from port to port in search of fish, when I could have realized full cargoes every time I was there, with certain sales, will not be computed in this amount, but simply the cost of the squid to me at Aspee Bay if I could have seined, and the value of the squid at St. Pierre.

In this whole matter no fishery officer or officer of the law forbade my seining; the threats and all demonstrations came from the local fishermen acting independent of all law and combined together to act as a mob, violence enforced by numbers being their only authority. I told them time and again that under the Treaty of Washington I had a right to seine, as the government had paid 5½ millions of dollars for this right; they replied that they cared nothing for treaties or rights; they were going to take care of themselves; the money the government had got done them no good, but when they got cash for squid it did them some good.

The squid on those shores are about a third grown and are not mature enough for spawning; they are about 6 inches long, and they grow about two inches in a summer; they are the young squid, and every season they come on these coasts, always the young fish; by the use of the seine it makes the catch a certainty, while the hooking process cannot be depended upon.

On this trip my vessel was under a fishing license with a permit to touch and trade. I had a few boots and shoes and some cottons in case I had occasion to trade. On arriving at Aspee Bay I reported to the customs officer at Northwest Harbor, and entered my vessel; the most of my goods I carried to St. Pierre.

CAPT. JAMES L. ANDERSON.

ESSEX, ss:

GLOUCESTER, Sept. 12th, 1879.

Personally appeared the above-named James L. Anderson, who made oath that the above statement by him subscribed is true, before me.

ADDISON CENTER,
Justice of the Peace.

GLOUCESTER, Sept. 10, 1879.

I, James D. Norwood, master of the American schooner Messina, of Gloucester, do solemnly depose and say that I left Gloucester for St. Ann's or Aspee Bay, Cape Breton, for a cargo of squid to sell for bait. I had been in these ports in previous years, and knew that the inhabitants would oppose the use of a seine in that bay, and consequently I went prepared to buy my squid.

I stopped at St. Ann's about a fortnight; got no squid, as they would not bite; then went to Aspee Bay and found that the squid would not take the hook, and that the people had opposed the use of any seine by Captain Anderson or any other person. I could have hired a seine and loaded my vessel if I had been allowed what I considered my rights under the Treaty of Washington, but finding the people in such a determined and threatening attitude I knew it would be useless to try to get my cargo there, and left for Newfoundland. I arrived at Torbay, where I bought 300,000 squid of the local fishermen, paying 900 dollars in cash for them.

The same hostility to Americans taking their own bait with seines exists at New-

foundland as at Cape Breton. The fishermen can make twice the amount of money taking squid for the American bankers and baiters than they can in their usual avocation of codfishing, and they will not be deprived of this lucrative trade if they can help it. It is cash to them, and the women and boys join with the local fishermen in the light work of taking squid with jigs. The whole community shares in the squid fishery and in the money they receive for them.

In my judgment full one hundred thousand dollars is paid annually on these shores for bait alone, and this could all be saved if the Americans could use their seines to take bait; and the bait if not purchased by the American fleet would be useless and valueless to the people.

I have been informed that there is a local law against seining squid at Newfoundland. The present mode of taking squid by jigs is a slow process, costing the Americans a great loss of time, when if the seine could be used it would save two-thirds the time it now takes to get bait. Each banker now has to spend at least 30 days out of each trip in going around from place to place for bait, as when the squid will not take the hook none can be obtained, and the seine makes the catch a certainty.

JAMES D. NORWOOD,
Master of Schooner Mescina.

ESSEX, 22 :

GLOUCESTER, Sept. 10, 1879.

Personally appeared the above-named James D. Norwood, who made oath that the above statement by him subscribed is true, before me.

ADDISON CENTER,
Justice of the Peace.

GLOUCESTER, Sept. 10, 1879.

I, Peter Thibodau, master of the American schooner Lizzie J. Jones, of Gloucester, do, on oath, depose and say, that I left Gloucester in the said vessel on the 3rd of June, 1879, for Aspee Bay, Cape Breton, on a trip for squid. I was not fitted with a seine, but was prepared to buy for this season; that the previous year I was at Aspee Bay with Capt. Dagle, and knew that the fishermen there would not, under any circumstances, permit a seine to be used there.

I was at Aspee Bay when Capt. Anderson, of the schooner Cadet, tried to use his seine, and Capt. Anderson asked me to assist him in using his seine for seining the squid, but the local fishermen, to a man, united in threatening destruction to the seine or any one who attempted to use it in that bay.

I am perfectly sure that the seine would have been destroyed, as the people warned me from having anything to do with it, and were constantly on the watch to see if Anderson attempted to use it, and were prepared to attack him on the first demonstration on his part. I did not get but 3,000 squid at Aspee Bay. My vessel would take, as a cargo, 500,000.

All of the vessels could have been loaded with squid, could the seine have been used; the bay was swarming with them.

I told the people that Americans had the right to take these squid with seines, and they said they cared nothing for that; they should and would protect themselves; if they allowed seining it would ruin their business of jigging squid, and then they thought the seining would drive away the squid from the bay.

At this place the local fishermen have no money, except what they get from the Americans for squid, and they say if this trade is taken from them they will have no money to pay their taxes, &c.

They usually receive from the local traders goods and groceries for the fish they take during the season, while the Americans pay cash for the squid and bait they buy.

I was obliged to leave Aspee Bay, as I could not obtain any squid, as they would not bite.

I then went to Newfoundland to Conception and Trinity Bays, where I bought no squid of the local fishermen.

The feeling is the same at Newfoundland as at Aspee Bay against seining.

No American will be allowed to use a seine to take squid in any of the bays or coves of Newfoundland under penalty of destruction of the seine. I have heard the people say this over and over again, and know that it is impossible to obtain what we consider our rights in this respect under the Treaty of Washington.

PETER THIBODAU, [SEAL]
Master of the Schooner Lizzie J. Jones.

ESSEX, 22 :

GLOUCESTER, Sept. 10, 1879.

Personally appeared the above-named Peter Thibodau before me, and made oath that the above statement, by him subscribed, is true.

ADDISON CENTER,
Justice of the Peace.

James Chalmers. That about June came to see me squid which there were ten come to this bay sale to the bank and Captain G. the bay and did so; they there been but one would have been deprived their squid, given of profit and have purchase would have lost. No opposition American and Anderson had the purchase of his dred and fifty. reason the inhabitant squid catch. T foundlanders his captain, but the for thirty years White Point,

Subscribed and

Charles Dagle, and say that he the purpose of purchase that while he was Massachusetts, not being obtained the purpose of capture bite at the jig. would cut it and money during the would be taken as squid was then that Captain Anderson left the bay with have filled his vessel. That I have just four thousand squid is a law in force of the natives, as

Sworn to before [SEAL.]

James Challoner, of White Point, Aspée Bay, being duly sworn, do depose and say: That about July 20th, 1879, Captain Anderson, of the schooner Cadet, of Gloucester, came to see me and said that his vessel the previous season had done very well with squid which they had purchased here and had sold at St. Pierre Miquelon; and that there were ten vessels this year engaged in the same business, and eight of them did come to this bay for the purpose of getting squid and carrying them to the banks for sale to the bankers, and remained here until about the 16th of July. Captain Anderson and Captain Goodwin, of the Bay State, had a seine for the purpose of seining squid in the bay and did not attempt to use it because the fishermen would not allow them to do so; they threatened to cut the seine if they placed it in the water; there never has been but one seine cast in this bay, and had Captain Anderson thrown his seine he would have swept the whole school of squid in the cove and the fishermen would have been deprived of all their bait for the season. Last season the Americans purchased their squid, giving 20 cents per hundred, and this, when the squid are plenty, is a source of profit and a large part of the business of the inhabitants. Captain Anderson could have purchased all he wished, but if the fishermen had allowed him to seine they would have lost the money paid for the squid by the cod-fishermen from the banks. No opposition was made to Captain Anderson's catching squid by hook and line.

American and French bankers come here every summer for bait, and if Captain Anderson had taken all the squid by his seine the bankers would have been forced to purchase of him instead of the native fishermen, of whom there are about one hundred and fifty. I am not aware of any colonial law against securing squid. The only reason the inhabitants threatened Captain Anderson was that he would ruin their squid catch. The only fishery officer lives at Fragnish, down the coast. Some Newfoundlanders living near here attempted, a little while ago, to use seines for taking caplin, but the natives would not permit them to do so. I have been a resident here for thirty years and engaged in the business of purchasing fish.

White Point, Br. Vic., 17th Aug., 1879.

J. A. CHALLONER.

Subscribed and sworn to before me this seventeenth day of August, 1879.

J. H. SEARS,

Ensign U. S. Navy, U. S. S. Kearsarge.

Charles Dagle, captain of the schooner Joseph Story, being duly sworn, doth depose and say that he was at Aspée Bay, Cape Breton, in the latter part of June, 1879, for the purpose of purchasing squid to carry to St. Pierre for bait for the French bankers; that while he was there Captain Anderson, of the schooner Cadet, of Gloucester, Massachusetts, who came for the purpose of catching squid at that place, and squid not being obtained in sufficient numbers by jigging, attempted to use a squid seine for the purpose of catching the squid which schooled in great numbers, but would not bite at the jig. The inhabitants of Aspée Bay threatened that if he set his seine they would cut it and there would be trouble, as selling squid was their only way of making money during the summer season, and if a seine was used in the cove all the squid would be taken or driven away, and they would lose all their summer's employment, as squid was the only bait they could obtain for catching cod. They were willing that Captain Anderson should jig his squid or purchase of them. Captain Anderson left the bay without a trip of squid, while if he had used his seine he would probably have filled his vessel.

That I have just come back from Torbay, Newfoundland, near St. John, with ninety-four thousand squid, which were all purchased of the inhabitants there. That there is a law in force in Newfoundland against seining squid, which forces us to purchase of the natives, as we have no time to take them by the slow process of jigging.

CHARLES DAGLE.

Sworn to before me at St. Pierre, Miq., this 19th August, 1879.

[SEAL.]

W. F. McLAUGHLIN,

Vice-Comm't Agt., U. S. A.

House Ex. Doc. No. 19, Forty-ninth Congress, second session.

RIGHTS OF AMERICAN FISHERMEN IN BRITISH NORTH
AMERICAN WATERS.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A letter from the Secretary of State, accompanied by the correspondence relating to the rights of American fishermen in British North American waters.

DECEMBER 8, 1886.—Referred to the Committee on Foreign Affairs and ordered to be printed.

To the Senate and House of Representatives of the United States:

I transmit herewith a letter from the Secretary of State, which is accompanied by the correspondence in relation to the rights of American fishermen in the British North American waters, and commend to your favorable consideration the suggestion that a commission be authorized by law to take perpetuating proofs of the losses sustained during the past year by American fishermen, owing to their unfriendly and unwarranted treatment by the local authorities of the maritime provinces of the Dominion of Canada.

I may have occasion hereafter to make further recommendations during the present session for such remedial legislation as may become necessary for the protection of the rights of our citizens engaged in the open-sea fisheries of the North Atlantic waters.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, December 8, 1886.

DEPARTMENT OF STATE,
Washington, December 8, 1886.

To the PRESIDENT:

The Secretary of State has the honor to submit to the President, with a view to its communication to Congress, the correspondence relative to the fisheries in the waters adjacent to British North America, which has taken place during the present year.

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It will disclose the action of this Department, and of our minister to Great Britain, in relation to the disputed construction of the convention of 1818, and what has been done to procure such an interpretation of its provisions as will be acceptable to both parties to that instrument, and consistent with their mutual interest and honor.

From time to time since the conclusion of the treaty of 1813, differences have arisen between the two Governments as to the extent of the renunciation by the United States of their former fishing rights in common in the littoral waters of British North America, and the true definition of the rights and privileges retained by, and expressly guaranteed to, the United States in the first article of that convention.

The history of this question during the period from 1818 to the present time has been one of unsuccessful attempts to adjust the respective claims, and occasionally the difficulties have been bridged over by temporary arrangements, notably by the treaty of Washington of June 5, 1854, and by the treaty of Washington of May 8, 1871, the fishery articles of the latter having been abrogated by the United States on June 30, 1885.

It is deeply to be regretted that the efforts of this Department, as shown by the correspondence now submitted, to arrive at such an agreement as would permit instructions of like tenor to be issued by the Governments of Great Britain and the United States, to guide the citizens of the respective nationalities in the unmolested exercise of their rights of fishing in the waters in question, and defining the limits of lawful action therein, have not as yet reached a final and satisfactory result.

Although propositions are now pending for consideration, which it is hoped may prove the basis of a just and permanent settlement, yet as supplementary to the published history of this long-standing subject, and as illustrating the obvious necessity in the interest of amity and good neighborhood of having a clear and well-defined understanding of the relative rights of the two Governments and their respective citizens, it is considered expedient that Congress should have full knowledge of the action of the Executive in the premises to assist them in their deliberations upon this important subject.

It will be observed in the course of this correspondence that notification has not failed to be duly given to the Government of Great Britain, that compensation is expected for the loss and damage caused to American fishermen by the unwarrantable action of the local authorities of the Dominion of Canada, not merely by the summary seizure of their vessels and the exaction of heavy fines in advance of hearing or judgment, but for the curtailment of privileges to which they were justly entitled under commercial regulations as well as treaty stipulations, and the consequent interference with their legitimate voyages, whereby the natural profits of their industry were seriously diminished, and in many cases wholly destroyed.

It would seem proper that steps *in perpetuum rei memoriam* should be taken by Congress to allow proofs to be made and placed upon record of these losses and injuries to our citizens, to enable them to be properly presented to Her Majesty's Government for settlement; and that for this purpose a commission should be authorized by Congress to take the necessary proofs of the respective claimants.

Respectfully submitted.

T. F. BAYARD.

LIST OF INCLOSURES.

I.—CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE BRITISH LEGATION IN WASHINGTON.

- 1.—Sir L. West to Mr. Bayard, March 19, 1886.
- 2.—Mr. Bayard to Sir L. West, March 23, 1886.
- 3.—Sir L. West to Mr. Bayard, March 24, 1886.
- 4.—Mr. Bayard to Sir L. West, May 10, 1886.
- 5.—Sir L. West to Mr. Bayard, May 10, 1886.
- 6.—Mr. Bayard to Sir L. West, May 20, 1886.
- 7.—Mr. Bayard to Sir L. West, May 22, 1886.
- 8.—Mr. Bayard to Sir L. West, May 29, 1886.
- 9.—Sir L. West to Mr. Bayard, June 2, 1886.
- 10.—Mr. Bayard to Sir L. West, June 2, 1886.
- 11.—Mr. Bayard to Sir L. West, June 7, 1886.
- 12.—Sir L. West to Mr. Bayard, June 8, 1886.
- 13.—Mr. Bayard to Sir L. West, June 14, 1886.
- 14.—Sir L. West to Mr. Bayard, June 15, 1886.
- 15.—Sir L. West to Mr. Bayard, June 18, 1886 (with inclosures).
- 16.—Mr. Bayard to Sir L. West, July 2, 1886.
- 17.—Sir L. West to Mr. Bayard, July 3, 1886.
- 18.—Sir L. West to Mr. Bayard, July 3, 1886.
- 19.—Mr. Bayard to Sir L. West, July 10, 1886.
- 20.—Mr. Bayard to Sir L. West, July 10, 1886.
- 21.—Mr. Hardinge to Mr. Bayard, July 12, 1886.
- 22.—Mr. Hardinge to Mr. Bayard, July 12, 1886.
- 23.—Mr. Bayard to Mr. Hardinge, July 16, 1886.
- 24.—Mr. Hardinge to Mr. Bayard, July 17, 1886.
- 25.—Mr. Bayard to Sir L. West, July 30, 1886.
- 26.—Mr. Hardinge to Mr. Bayard, July 31, 1886.
- 27.—Mr. Hardinge to Mr. Bayard, August 2, 1886 (with inclosures).
- 28.—Mr. Bayard to Mr. Hardinge, August 9, 1886.
- 29.—Mr. Hardinge to Mr. Bayard, August 10, 1886.
- 30.—Mr. Bayard to Sir L. West, August 17, 1886.
- 31.—Sir L. West to Mr. Bayard, August 18, 1886.
- 32.—Mr. Bayard to Sir L. West, August 18, 1886.
- 33.—Sir L. West to Mr. Bayard, August 18, 1886.
- 34.—Sir L. West to Mr. Bayard, August 19, 1886.
- 35.—Sir L. West to Mr. Bayard, September 1, 1886.
- 36.—Mr. Bayard to Sir L. West, September 10, 1886.
- 37.—Sir L. West to Mr. Bayard, September 11, 1886.
- 38.—Sir L. West to Mr. Bayard, September 17, 1886.
- 39.—Sir L. West to Mr. Bayard, September 18, 1886.
- 40.—Mr. Bayard to Sir L. West, September 23, 1886.
- 41.—Sir L. West to Mr. Bayard, September 25, 1886.
- 42.—Sir L. West to Mr. Bayard, October 12, 1886 (with an inclosure).
- 43.—Sir L. West to Mr. Bayard, October 12, 1886 (with inclosures).
- 44.—Mr. Bayard to Sir L. West, October 19, 1886.
- 45.—Mr. Bayard to Sir L. West, October 20, 1886 (with an inclosure).
- 46.—Sir L. West to Mr. Bayard, October 21, 1886.
- 47.—Mr. Bayard to Sir L. West, October 27, 1886.
- 48.—Sir L. West to Mr. Bayard, November 1, 1886 (with inclosures).
- 49.—Sir L. West to Mr. Bayard, November 9, 1886 (with an inclosure).
- 50.—Mr. Bayard to Sir L. West, November 11, 1886 (with inclosures).
- 51.—Sir L. West to Mr. Bayard, November 12, 1886.
- 52.—Sir L. West to Mr. Bayard, November 15, 1886.
- 53.—Mr. Bayard to Sir L. West, December 1, 1886 (with inclosures).
- 54.—Sir L. West to Mr. Bayard, December 6, 1886 (with inclosures and copy of Canadian customs act of 1883).
- 55.—Sir L. West to Mr. Bayard, December 7, 1886 (with inclosures).
- 56.—Sir L. West to Mr. Bayard, December 7, 1886 (with inclosures).
- 57.—Sir L. West to Mr. Bayard, December 7, 1886 (with inclosures).

II.—CORRESP

58.—Mr. F.
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III.—MISCELLANEOUS
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IN CANADIAN

72.—Messrs
73.—Mr. B.
74.—Mr. W.
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76.—Mr. S.
77.—Mr. B.
78.—Mr. J.
79.—Mr. S.
80.—Mr. S.
81.—Mr. B.
82.—Mr. B.
83.—Mr. B.
84.—Capt.
85.—Mr. B.
86.—Mr. W.
87.—Messrs
88.—Mr. W.
89.—Mr. W.
90.—Mr. B.
91.—Hon. M.
92.—Mr. B.
93.—Mr. B.
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97.—Mr. B.
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99.—Mr. B.
100.—Mr. P.
101.—Mr. P.
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103.—Mr. B.
104.—Mr. B.
105.—Mr. W.
106.—Mr. B.
107.—Mr. S.
108.—Mr. B.
109.—Mr. S.

IV.—EXTENSION

110.—Senate

II.—CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE UNITED STATES LEGATION IN LONDON.

- 58.—Mr. Bayard to Mr. Phelps (No. 289) May 11, 1886.
 59.—Mr. Bayard to Mr. Phelps (No. 303) May 21, 1886.
 60.—Mr. Bayard to Mr. Phelps (No. 310), June 1, 1886.
 61.—Mr. Phelps to Mr. Bayard (No. 293), June 5, 1886 (with an inclosure).
 62.—Mr. Bayard to Mr. Phelps (No. 328), June 15, 1886.
 63.—Mr. Bayard to Mr. Phelps (No. 329), June 18, 1886 (with inclosures).
 64.—Mr. Bayard to Mr. Phelps (No. 369), July 29, 1886 (with inclosures).
 65.—Mr. Bayard to Mr. Phelps (No. 372), July 30, 1886.
 66.—Mr. Phelps to Mr. Bayard (No. 351), September 13, 1886 (with inclosures).
 67.—Mr. Porter to Mr. Phelps (No. 414), September 29, 1886.
 68.—Mr. Phelps to Mr. Bayard (No. 372), October 12, 1886 (with an inclosure).
 69.—Mr. Bayard to Mr. Phelps (No. 434), October 20, 1886.
 70.—Mr. Bayard to Mr. Phelps (No. 452), November 6, 1886.
 71.—Mr. Bayard to Mr. Phelps (No. 462), November 20, 1886.

III.—MISCELLANEOUS. SELECTIONS FROM CORRESPONDENCE OF THE DEPARTMENT OF STATE WITH PARTIES INTERESTED IN AMERICAN FISHING VESSELS MOLESTED IN CANADIAN WATERS.

- 72.—Messrs. Cushing and McKenney to Mr. Bayard, telegram, Portland, April 9, 1886.
 73.—Mr. Bayard to Messrs. Cushing and McKenney, telegram, April 9, 1886.
 74.—Mr. Woodbury to Mr. Bayard, May 21, 1886 (with inclosures).
 75.—Mr. Woodbury to Mr. Bayard, May 22, 1886.
 76.—Mr. Steele to Mr. Bayard, May 22, 1886 (with inclosures).
 77.—Mr. Bayard to Mr. Steele, May 26, 1886.
 78.—Mr. Jordan to Mr. Bayard, June 4, 1886.
 79.—Mr. Steele to Mr. Bayard, June 5, 1886 (with inclosures).
 80.—Mr. Steele to Mr. Bayard, June 5, 1886.
 81.—Mr. Bayard to Mr. Steele, June 7, 1886.
 82.—Mr. Bayard to Mr. Steele, June 8, 1886.
 83.—Mr. Bayard to Mr. Jordan, June 8, 1886.
 84.—Capt. Jesse Lewis to Mr. Bayard, June 26, 1886.
 85.—Mr. Bayard to Capt. Jesse Lewis, June 30, 1886.
 86.—Mr. Willard to Mr. Bayard, telegram, Portland, July 3, 1886.
 87.—Messrs. Cushing and McKenney to Mr. Bayard, telegram, Portland, July 3, 1886.
 88.—Mr. Woodbury to Mr. Bayard, July 7, 1886 (with inclosures).
 89.—Mr. Willard to Mr. Bayard, July 7, 1886.
 90.—Mr. Bayard to Mr. Willard, July 9, 1886.
 91.—Hon. Mr. Boutelle to Mr. Bayard, telegram, Washington, July 10, 1886.
 92.—Mr. Bayard to Mr. Boutelle, July 10, 1886.
 93.—Mr. Bayard to Mr. Woodbury, July 13, 1886.
 94.—Hon. Mr. Boutelle to Mr. Bayard, July 14, 1886 (with an inclosure).
 95.—Mr. Bayard to Hon. Mr. Boutelle, July 15, 1886.
 96.—Mr. Woodbury to Mr. Bayard, July 28, 1886 (with inclosures).
 97.—Mr. Bayard to Mr. Woodbury, July 30, 1886.
 98.—Mr. Woodbury to Mr. Bayard, July 30, 1886 (with an inclosure).
 99.—Mr. Bayard to Mr. Woodbury, July 31, 1886.
 100.—Mr. Presson to Mr. Bayard, August 9, 1886 (with an inclosure).
 101.—Mr. Presson to Mr. Bayard, August 10, 1886 (with an inclosure).
 102.—Mr. Presson to Mr. Bayard, August 14, 1886 (with an inclosure).
 103.—Mr. Bayard to Mr. Presson, August 15, 1886.
 104.—Mr. Bayard to Messrs. Cushing and McKenney, August 19, 1886.
 105.—Mr. Woodbury to Mr. Bayard, October 12, 1886 (with inclosures).
 106.—Mr. Bayard to Woodbury, October 15, 1886.
 107.—Mr. Steele to Mr. Bayard, October 18, 1886.
 108.—Mr. Bayard to Mr. Steele, October 20, 1886.
 109.—Mr. Steele to Mr. Bayard, October 25, 1886.

IV.—EXTENSION OF CERTAIN FISHING RIGHTS UNDER THE TREATY OF WASHINGTON.

- 110.—Senate Document No. 32, first session Forty-ninth Congress.

I.—CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE
AND THE BRITISH LEGATION IN WASHINGTON.

No. 1.

Sir L. West to Mr. Bayard.

WASHINGTON, March 19, 1886. [Received March 20.]

SIR: I have the honor to inform you that the Earl of Rosebery has requested me to ascertain whether it is intended to give notice to the United States fishermen that they are now precluded from fishing in British North American territorial waters, as Her Majesty's Government are considering the expediency of issuing a reciprocal notice with regard to British fishermen in American waters.

I have, &c.,

L. S. SACKVILLE WEST.

No. 2.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, March 23, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, whereby you inform me that you have been requested by the Earl of Rosebery to ascertain "whether it is intended to give notice to the United States fishermen that they are now precluded from fishing in British North American territorial waters," and to inform you, in reply, that as full and formal public notification in the premises has already been given by the President's proclamation of 31st January, 1885, it is not now deemed necessary to repeat it.

The temporary arrangement made between us on the 22d of June, 1885, whereby certain fishing operations on the respective coasts were not to be interfered with during the fishing season of 1885, notwithstanding the abrogation of the fishery articles of the treaty of Washington, came to an end under its own expressed limitation on the 31st of December last, and the fisheries question is now understood to rest on existing treaties, precisely as though no fishery articles had been incorporated in the treaty of Washington.

In view of the enduring nature and important extent of the rights secured to American fishermen in British North American territorial waters under the provisions of the treaty of 1818, to take fish within the

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three-mile limit on certain defined parts of the British North American coasts, and to dry and cure fish there under certain conditions, this Government has not found it necessary to give to United States fishermen any notification that "they are now precluded from fishing in British North American territorial waters."

I have, &c.,

T. F. BAYARD.

No. 3.

Sir L. West to Mr. Bayard.

BRITISH LEGATION,
Washington, March 24, 1886. [Received March 25.]

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, in reply to mine of the 19th, informing me that, as full and formal public notification in the premises has already been given by the President's proclamation of the 31st January, 1885, it has not been found necessary to give to United States fishermen any further notification that they are now precluded from fishing in British North American territorial waters. I have duly informed Her Majesty's Government and the Government of the Dominion of this decision.

I have, &c.,

L. S. SACKVILLE WEST.

No. 4.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, May 10, 1886.

SIR: On the 6th instant I received from the consul-general of the United States at Halifax a statement of the seizure of an American schooner, the Joseph Story, of Gloucester, Mass., by the authorities at Baddeck, Cape Breton, and her discharge after a detention of twenty-four hours.

On Saturday, the 8th instant, I received a telegram from the same official announcing the seizure of the American schooner David J. Adams, of Gloucester, Mass., in the Annapolis Basin, Nova Scotia, and that the vessel had been placed in the custody of an officer of the Canadian steamer Lansdowne and sent to St. John, New Brunswick, for trial.

As both of these seizures took place in closely landlocked harbors, no invasion of the territorial waters of the British Provinces, with the view of fishing there, could well be imagined; and yet the arrests appear to have been based upon the act or intent of fishing within waters as to which, under the provision of the treaty of 1818 between Great Britain and the United States of America, the liberty of the inhabitants of the United States to fish has been renounced.

It would be superfluous for me to dwell upon the desire which, I am sure, controls those respectively charged with the administration of the Governments of Great Britain and of the United States to prevent oc-

currences tending to create exasperation, or unneighborly feeling, or collision between the inhabitants of the two countries; but, animated with this sentiment, the time seems opportune for me to submit some views for your consideration, which I confidently hope will lead to such administration of the laws regulating the commercial interests and the mercantile marine of the two countries as may promote good feeling and mutual advantage, and prevent hostility to commerce under the guise of protection to inshore fisheries.

The treaty of 1818 is between two nations, the United States of America and Great Britain, who, as the contracting parties, can alone apply authoritative interpretation thereto, or enforce its provisions by appropriate legislation.

The discussion prior to the conclusion of the treaty of Washington in 1871 was productive of a substantial agreement between the two countries as to the existence and limit of the three marine miles within the line of which, upon the regions defined in the treaty of 1818, it should not be lawful for American fishermen to take, dry, or cure fish. There is no hesitancy upon the part of the Government of the United States to proclaim such inhibition and warn their citizens against the infraction of the treaty in that regard, so that such inshore fishing cannot lawfully be enjoyed by an American vessel being within three marine miles of the land.

But since the date of the treaty of 1818, a series of laws and regulations importantly affecting the trade between the North American Provinces of Great Britain and the United States have been, respectively, adopted by the two countries, and have led to amicable and mutually beneficial relations between their respective inhabitants.

This independent and yet concurrent action by the two Governments has effected a gradual extension, from time to time, of the provisions of Article I of the convention of July 3, 1815, providing for reciprocal liberty of commerce between the United States and the territories of Great Britain in Europe, so as gradually to include the colonial possessions of Great Britain in North America and the West Indies within the results of that treaty.

President Jackson's proclamation of October 5, 1830, created a reciprocal commercial intercourse, on terms of perfect equality of flag, between this country and the British American dependencies, by repealing the navigation acts of April 18, 1818, May 15, 1820, and March 1, 1823, and admitting British vessels and their cargoes "to an entry in the ports of the United States from the islands, provinces, and colonies of Great Britain on or near the American continent, and north or east of the United States." These commercial privileges have since received a large extension in the interests of propinquity, and in some cases favors have been granted by the United States without equivalent concession. Of the latter class is the exemption granted by the shipping act of June 26, 1884, amounting to one-half of the regular tonnage-dues on all vessels from the British North American and West Indian possessions entering ports of the United States. Of the reciprocal class are the arrangements for transit of goods, and the remission, by proclamation, as to certain British ports and places of the remainder of the tonnage-tax, on evidence of equal treatment being shown to our vessels.

On the other side, British and colonial legislation, as notably in the case of the imperial shipping and navigation act of June 26, 1849, has contributed its share toward building up an intimate intercourse and beneficial traffic between the two countries founded on mutual interest and convenience.

These arrangements depend upon the Executive's interpretation of the law.

The seizure of "warnings" would appear to be within the jurisdiction by the treaty of Great Britain with the United States.

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These arrangements, so far as the United States are concerned, depend upon municipal statute and upon the discretionary powers of the Executive thereunder.

The seizure of the vessels I have mentioned, and certain published "warnings" purporting to have been issued by the colonial authorities, would appear to have been made under a supposed delegation of jurisdiction by the Imperial Government of Great Britain, and to be intended to include authority to interpret and enforce the provisions of the treaty of 1818, to which, as I have remarked, the United States and Great Britain are the contracting parties, who can alone deal responsibly with questions arising thereunder.

The effect of this colonial legislation and Executive interpretation, if executed according to the letter, would be not only to expand the restrictions and renunciations of the treaty of 1818, which related solely to inshore fishery within the three-mile limit, so as to affect the deep-sea fisheries, the right to which remained unquestioned and unimpaired for the enjoyment of the citizens of the United States, but further to diminish and practically to destroy the privileges expressly secured to American fishing vessels to visit those inshore waters for the objects of shelter, repair of damages, and purchasing wood, and obtaining water.

Since 1818, certain important changes have taken place in fishing in the regions in question, which have materially modified the conditions under which the business of inshore fishing is conducted and which must have great weight in any present administration of the treaty.

Drying and curing fish, for which a use of the adjacent shores was at one time requisite, is now no longer followed, and modern invention of processes of artificial freezing, and the employment of vessels of a larger size, permit the catch and direct transportation of fish to the markets of the United States without recourse to the shores contiguous to the fishing grounds.

The mode of taking fish inshore has also been wholly changed, and from the highest authority on such subjects I learn that bait is no longer needed for such fishing, that purse-seines have been substituted for the other methods of taking mackerel, and that by their employment these fish are now readily caught in deeper waters entirely exterior to the three-mile line.

As it is admitted that the deep-sea fishing was not under consideration in the negotiation of the treaty of 1818, nor was affected thereby, and as the use of bait for inshore fishing has passed wholly into disuse, the reasons which may have formerly existed for refusing to permit American fishermen to catch or procure bait within the line of a marine league from the shore lest they should also use it in the same inhibited waters for the purpose of catching other fish, no longer exist.

For it will, I believe, be conceded as a fact that bait is no longer needed to catch herring or mackerel, which are the objects of inshore fishing, but is used, and only used, in deep-sea fishing, and, therefore, to prevent the purchase of bait or any other supply needed in deep-sea fishing, under color of executing the provisions of the treaty of 1818, would be to expand that convention to objects wholly beyond its purview, scope, and intent, and give to it an effect never contemplated by either party, and accompanied by results unjust and injurious to the citizens of the United States.

As, therefore, there is no longer any inducement for American fishermen to "dry and cure" fish on the interdicted coasts of the Canadian Provinces, and as bait is no longer used or needed by them [for the prosecution of inshore fishing] in order to "take" fish in the inshore

waters to which the treaty of 1818 alone relate, I ask you to consider the results of excluding American vessels, duly possessed of permits from their own Government to touch and trade at Canadian ports as well as to engage in deep sea-fishing, from exercising freely the same customary and reasonable rights and privileges of trade in the ports of the British colonies as are freely allowed to British vessels in all the ports of the United States under the laws and regulations to which I have adverted.

Among these customary rights and privileges may be enumerated the purchase of ship-supplies of every nature, making repairs, the shipment of crews in whole or part, and the purchase of ice and bait for use in deep-sea fishing.

Concurrently, these usual rational and convenient privileges are freely extended to and are fully enjoyed by the Canadian merchant marine of all occupations, including fishermen in the ports of the United States.

The question therefore arises whether such a construction is admissible as would convert the treaty of 1818 from being an instrumentality for the protection of the inshore fisheries along the described parts of the British American coast into a pretext or means of obstructing the business of deep-sea fishing by citizens of the United States, and of interrupting and destroying the commercial intercourse that since the treaty of 1818, and independent of any treaty whatever, has grown up and now exists under the concurrent and friendly laws and mercantile regulations of the respective countries.

I may recall to your attention the fact that a proposition to exclude the vessels of the United States engaged in fishing from carrying also merchandise was made by the British negotiators of the treaty of 1818, but being resisted by the American negotiators was abandoned. This fact would seem clearly to indicate that the business of fishing did not then, and does not now, disqualify a vessel from also trading in the regular ports of entry.

I have been led to offer these considerations by the recent seizures of American vessels to which I have adverted and by indications of a local spirit of interpretation in the Provinces, affecting friendly intercourse, which is, I firmly believe, not warranted by the terms of the stipulations on which it professes to rest. It is not my purpose to discuss the facts of the cases, nor have I any desire to shield any vessel from the consequences of violation of international law. The views I advance may prove not to be applicable in every one of those particular cases, and I should be glad if no case whatever were to arise calling in question the good understanding of the two countries in this regard in order to be free from the grave apprehensions which otherwise I am unable to dismiss.

It would be most unfortunate, and, I cannot refrain from saying, most unworthy, if the two nations who contracted the treaty of 1818 should permit any questions of mutual right and duty under that convention to become obscured by partisan advocacy or distorted by the heat of local interests. It cannot but be the common aim to conduct all discussion in this regard with dignity and in a self-respecting spirit, that will show itself intent upon securing equal justice rather than unequal advantage. Comity, courtesy, and justice cannot, I am sure, fail to be the ruling motives and objects of discussion.

I shall be most happy to come to a distinct and friendly understanding with you, as the representative of Her Britannic Majesty's Government, which will result in such a definition of the rights of American

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fishing-vessels under the treaty of 1818 as shall effectually prevent any encroachment by them upon the territorial waters of the British Provinces for the purpose of fishing within those waters, or trespassing in any way upon the littoral or marine rights of the inhabitants, and, at the same time, prevent that convention from being improperly expanded into an instrument of discord by affecting interests and accomplishing results wholly outside of and contrary to its object and intent, by allowing it to become an agency to interfere with and perhaps destroy those reciprocal commercial privileges and facilities between neighboring communities which contribute so importantly to their peace and happiness. It is obviously essential that the administration of the laws regulating the Canadian inshore fishing should not be conducted in a punitive and hostile spirit, which can only tend to induce acts of a retaliatory nature.

Everything will be done by the United States to cause their citizens engaged in fishing to conform to the obligations of the treaty, and prevent an infraction of the fishing laws of the British Provinces; but it is equally necessary that ordinary commercial intercourse should not be interrupted by harsh measures and unfriendly administration.

I have the honor, therefore, to invite a frank expression of your views upon the subject, believing that, should any differences of opinion or disagreement as to facts exist, they will be found to be so minimized that an accord can be established for the full protection of the inshore fishing of the British Provinces, without obstructing the open-sea fishing operations of the citizens of the United States or disturbing the trade regulations now subsisting between the countries.

I have, &c.,

T. F. BAYARD.

No. 5.

Sir L. West to Mr. Bayard.

WASHINGTON, May 10, 1886. [Received May 12.]

SIR: I have the honor to acknowledge the receipt of your note of this day's date, and to inform you that I have lost no time in transmitting copy of this important communication to Her Majesty's Government.

I have, &c.,

L. S. SACKVILLE WEST.

No. 6.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,

Washington, May 20, 1886.

SIR: Although without reply to the note I had the honor to address to you on the 10th instant, in relation to the Canadian fisheries and the interpretation of the treaty of 1818 between the United States and Great Britain as to the rights and duties of the American citizens en-

gaged in maritime trade and intercourse with the Provinces of British North America, in view of the unrestrained, and, as it appears to me, unwarranted, irregular, and severe action of Canadian officials toward American vessels in those waters, yet I feel it to be my duty to bring impressively to your attention information more recently received by me from the United States consul-general at Halifax, Nova Scotia, in relation to the seizure and continued detention of the American schooner David J. Adams, already referred to in my previous note, and the apparent disposition of the local officials to use the most extreme and technical reasons for interference with vessels not engaged in or intended for inshore fishing on that coast.

The report received by me yesterday evening alleges such action in relation to the vessel mentioned as renders it difficult to imagine it to be that orderly proceeding and "due process of law" so well known and customarily exercised in Great Britain and the United States, and which dignifies the two Governments, and gives to private rights of property and the liberty of the individual their essential safeguards.

By the information thus derived it would appear that after four several and distinct visitations by boats' crews from the Lansdowne, in Annapolis Basin, Nova Scotia, the David J. Adams was summarily taken into custody by the Canadian steamer Lansdowne and carried out of the Province of Nova Scotia, across the Bay of Fundy, and into the port of St. John, New Brunswick, and without explanation or hearing, on the following Monday, May 10, taken back again by an armed crew to Digby, in Nova Scotia. That in Digby the paper alleged to be the legal precept for the capture and detention of the vessel was mailed to her mast in such manner as to prevent its contents being read, and the request of the captain of the David J. Adams and of the United States consul-general to be allowed to detach the writ from the mast for the purpose of learning its contents was positively refused by the provincial official in charge. Nor was the United States consul-general able to learn from the commander of the Lansdowne the nature of the complaint against the vessel, and his respectful application to that effect was fruitless.

In so extraordinary, confused, and irresponsible a condition of affairs, it is not possible to ascertain with that accuracy which is needful in matters of such grave importance the precise grounds for this harsh and peremptory arrest and detention of a vessel the property of citizens of a nation with whom relations of peace and amity were supposed to exist.

From the best information, however, which the United States consul-general was enabled to obtain after application to the prosecuting officials, he reports that the David J. Adams was seized and is now held (1) for alleged violation of the treaty of 1818; (2) for alleged violation of the act 59 Geo. III; (3) for alleged violation of the colonial act of Nova Scotia of 1868; and (4) for alleged violation of the act of 1870 and also that of 1883, both Canadian statutes.

Of these allegations there is but one which at present I press upon your immediate consideration, and that is the alleged infraction of the treaty of 1818.

I beg to recall to your attention the correspondence and action of those respectively charged with the administration and government of Great Britain and the United States in the year 1870, when the same international questions were under consideration and the statute of law was not essentially different from what it is at present.

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1870, to wit: Th

This correspondence discloses the intention of the Canadian authorities of that day to prevent encroachment upon their inshore fishing grounds, and their preparations in the way of a marine police force, very much as we now witness. The statutes of Great Britain and of her Canadian Provinces, which are now supposed to be invoked as authority for the action against the schooner David J. Adams, were then reported as the basis of their proceedings.

In his note of May 26, 1870, Mr. (afterwards Sir Edward) Thornton, the British minister at this capital, conveyed to Mr. Fish, then Secretary of State, copies of the orders of the royal Admiralty to Vice-Admiral Wellesley, in command of the naval forces "employed in maintaining order at the fisheries in the neighborhood of the coasts of Canada."

All of these orders directed the protection of Canadian fishermen and cordial co-operation and concert with the United States force sent on the same service with respect to American fishermen in those waters. Great caution in the arrest of American vessels charged with violation of the Canadian fishing laws was scrupulously enjoined upon the British authorities, and the extreme importance of the commanding officers of ships selected to protect the fisheries exercising the utmost discretion in paying especial attention to Lord Granville's observation, that no vessel should be seized unless it were evident, and could be clearly proved, that the offense of fishing had been committed, and the vessel captured within three miles of land.

This caution was still more explicitly announced when Mr. Thornton, on the 11th of June, 1870, wrote to Mr. Fish:

You are, however, quite right in not doubting that Admiral Wellesley, on the receipt of the later instructions addressed to him on the 5th ultimo, will have modified the directions to the officers under his command so that they may be in conformity with the views of the Admiralty. In confirmation of this I have since received a letter from Vice-Admiral Wellesley dated the 30th ultimo, informing me that he had received instructions to the effect that officers of Her Majesty's ships employed in the protection of the fisheries should not seize any vessel unless it were evident, and could be clearly proved, that the offense of fishing had been committed and the vessel itself captured within three miles of land.

This understanding between the two Governments wisely and efficiently guarded against the manifest danger of intrusting the execution of powers so important and involving so high and delicate a discretion to any but wise and responsible officials, whose prudence and care should be commensurate with the magnitude and national importance of the interests involved. And I should fail in my duty if I did not endeavor to impress you with my sense of the absolute and instant necessity that now exists for a restriction of the seizure of American vessels charged with violations of the treaty of 1818 to the conditions announced by Sir Edward Thornton to this Government in June, 1870.

The charges of violating the local laws and commercial regulations of the ports of the British Provinces (to which I am desirous that due and full observance should be paid by citizens of the United States), I do not consider in this note, and I will only take this occasion to ask you to give me full information of the official action of the Canadian authorities in this regard, and what laws and regulations having the force of law, in relation to the protection of their inshore fisheries and preventing encroachments thereon, are now held by them to be in force.

But I trust you will join with me in realizing the urgent and essential importance of restricting all arrests of American fishing vessels for supposed or alleged violations of the convention of 1818 within the limitations and conditions laid down by the authorities of Great Britain in 1870, to wit: That no vessel shall be seized unless it is evident and can

be clearly proved that the offense of fishing has been committed and the vessel itself captured within three miles of land.

In regard to the necessity for the instant imposition of such restrictions upon the arrest of vessels, you will, I believe, agree with me, and I will therefore ask you to procure such steps to be taken as shall cause such orders to be forthwith put in force under the authority of Her Majesty's Government.

I have, &c.,

T. F. BAYARD.

No. 7.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, May 22, 1886.

MY DEAR SIR LIONEL: I have telegraphed to-day to Mr. Phelps, urging the advantage and need of my coming to some immediate understanding with you expressive of the views of the two parties to the treaty.

My conviction strengthens as to the importance of having a stop put at once to vexatious interpretations and action by local authorities, which can only hinder an amicable accord, and I have asked that these seizures be suspended without prejudice to the legal results pending an authoritative treatment of the main question.

It surely cannot be the purpose of the provincial authorities to embarrass the two Governments, by whom alone the issues are cognizable. A frank and friendly spirit has been exhibited by both Governments in abstaining from any demonstration of naval force in the provincial waters, and it is desirable that this should be continued, as it will add to the moral impressiveness of any settlement we may arrive at.

Very faithfully yours,

T. F. BAYARD.

No. 8.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, May 20, 1886.

SIR: I have just received an official imprint of House of Commons bill No. 136, now pending in the Canadian Parliament, entitled "An act further to amend the act respecting fishing by foreign vessels," and am informed that it has passed the house and is now pending in the senate.

This bill proposes the forcible search, seizure, and forfeiture of any foreign vessel within any harbor in Canada, or hovering within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, where such vessel has entered such waters for any purpose not permitted by the laws of nations, or by treaty or convention, or by any law of the United Kingdom or of Canada now in force.

I hasten to draw your attention to the wholly unwarranted proposition of the Canadian authorities, through their local agents, arbitrarily

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to enforce according to their own construction the provisions of any convention between the United States and Great Britain, and, by the interpolation of language not found in any such treaty, and, by interpretation not claimed or conceded by either party to such treaty, to invade and destroy the commercial rights and privileges of citizens of the United States under and by virtue of treaty stipulation with Great Britain and statutes in that behalf made and provided.

I have also been furnished with a copy of circular No. 371, purporting to be from the customs department at Ottawa, dated May 7, 1886, and to be signed by J. Johnson, commissioner of customs, assuming to execute the provisions of the treaty between the United States and Great Britain, concluded October 20, 1818, and printed copies of a warning, purporting to be issued by George E. Foster, minister of marine and fisheries, dated at Ottawa, March 5, 1886, of a similar tenor, although capable of unequal results in its execution.

Such proceedings I conceive to be flagrantly violative of the reciprocal commercial privileges to which citizens of the United States are lawfully entitled under statutes of Great Britain and the well-defined and publicly proclaimed authority of both countries, besides being in respect of the existing conventions between the two countries an assumption of jurisdiction entirely unwarranted and which is wholly denied by the United States.

In the interest of the maintenance of peaceful and friendly relations, I give you my earliest information on this subject, adding that I have telegraphed Mr. Phelps, our minister at London, to make earnest protest to Her Majesty's Government against such arbitrary, unlawful, unwarranted and unfriendly action on the part of the Canadian Government and its officials, and have instructed Mr. Phelps to give notice that the Government of Great Britain will be held liable for all losses and injuries to citizens of the United States and their property caused by the unauthorized and unfriendly action of the Canadian officials to which I have referred.

I have, &c.

T. F. BAYARD,

No. 9.

Sir L. West to Mr. Bayard.

WASHINGTON, June 2, 1886. [Received June 3.]

SIR: I have the honor to acknowledge the receipt of your notes of the 20th and 29th of May on the subject of the seizure of American fishing vessels in Canadian waters.

I have, &c.

L. S. SACKVILLE WEST.

No. 10.

Mr. Bayard to Sir L. West.

WASHINGTON, June 2, 1886.

MY DEAR SIR LIONEL: A telegram from Eastport, in Maine, to the member of Congress from that district, announces a threat by Dominion collectors of customs to seize American boats if they buy herring for canning in the Dominion weirs.

This additional threatened inhibition of trade relates to the sardine industry, which consists in canning in the United States very small and young herring, which, I am informed, are caught very closely inshore in weirs, in Canadian waters, by the inhabitants and sold to citizens of the United States.

The occupation is carried on solely by Canadian fishermen, along the coasts of their own country, so that the interference suggested is with their freedom of contract to dispose of property lawfully the result of their own labors, because the sale is to citizens of the United States.

It is important that the facts should be made known plainly.

Yours very sincerely,

T. F. BAYARD.

No. 11.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, June 7, 1886.

SIR: I regret exceedingly to communicate that report is to-day made to me, accompanied by affidavit, of the refusal of the collector of customs at the port of St. Andrews, New Brunswick, to allow the master of the American schooner Annie M. Jordan, of Gloucester, Mass., to enter the said vessel at that port, although properly documented as a fishing vessel with permission to touch and trade at any foreign port or place during her voyage.

The object of such entry was explained by the master to be the purchase and exportation of "certain merchandise" (possibly fresh fish for food, or bait for deep-sea fishing).

The vessel was threatened with seizure by the Canadian authorities, and her owners allege that they have sustained damage from this refusal of commercial rights.

I earnestly protest against this unwarranted withholding of lawful commercial privileges from an American vessel and her owners, and for the loss and damage consequent thereon the Government of Great Britain will be held liable.

I have, &c.,

T. F. BAYARD.

No. 12.

Sir L. West to Mr. Bayard.

WASHINGTON, June 8, 1886. [Received June 9.]

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, protesting against the proceedings taken in the case of the Annie M. Jordan by the Canadian authorities.

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No. 13.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,
Washington, June 14, 1886.

SIR: The consul-general of the United States at Halifax communicated to me the information derived by him from the collector of customs at that port to the effect that American fishing vessels will not be permitted to land fish at that port of entry for transportation in bond across the province.

I have also to inform you that the masters of the four American fishing vessels of Gloucester, Mass., Martha A. Bradley, Rattler, Eliza Boynton, and Pioneer, have severally reported to the consul-general at Halifax that the subcollector of customs at Canso had warned them to keep outside an imaginary line drawn from a point three miles outside Canso Head to a point three miles outside St. Esprit, on the Cape Breton coast, a distance of 40 miles. This line for nearly its entire continuance is distant 12 to 25 miles from the coast.

The same masters also report that they were warned against going inside an imaginary line drawn from a point three miles outside North Cape, on Prince Edward Island, to a point three miles outside of East Point, on the same island, a distance of over 100 miles, and that this last-named line was for nearly that entire distance about 30 miles from the shore.

The same authority informed the masters of the vessels referred to that they would not be permitted to enter Bay Chaleur.

Such warnings are, as you must be well aware, wholly unwarranted pretensions of extracerritorial authority and usurpations of jurisdiction by the provincial officials.

It becomes my duty, in bringing this information to your notice, to request that if any such orders for interference with the unquestionable rights of the American fishermen to pursue their business without molestation at any point not within three marine miles of the shores, and within the defined limits as to which renunciation of the liberty to fish was expressed in the treaty of 1818, may have been issued, the same may at once be revoked as violative of the rights of citizens of the United States under convention with Great Britain.

I will ask you to bring this subject to the immediate attention of Her Britannic Majesty's Government, to the end that proper remedial orders may be forthwith issued.

It seems most unfortunate and regrettable that questions which have been long since settled between the United States and Great Britain should now be sought to be revived.

I have, &c.,

T. F. BAYARD.

No. 14.

*Sir L. West to Mr. Bayard.*WASHINGTON, *June 15, 1886.* [Received June 16.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, bringing to my notice certain alleged warnings given

by the Canadian authorities to American fishing vessels, and to inform you that I have brought the matter to the notice of Her Majesty's Government.

I have, &c.

L. S. SACKVILLE WEST.

No. 15.

Sir L. West to Mr. Bayard.

BRITISH LEGATION.

Washington, June 18, 1886. [Received June 19.]

Sir Lionel West presents his compliments to Mr. Bayard, and has the honor to transmit to him herewith the accompanying acts, which have been forwarded to him, at the request of Sir John McDonald, by the deputy minister of marine and fisheries, for his information.

[Inclosure No. 1.]

CAP. XIV.

AN ACT relating to the fisheries, and for the prevention of illicit trade in Prince Edward's Island
and the coasts and harbors thereof.

Whereas by the convention made between his late Majesty King George the Third and the United States of America, signed at London, on the twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen, and the statute made and passed in the Parliament of Great Britain, in the fifty-ninth year of the reign of his late Majesty King George the Third, all foreign ships, vessels, or boats, or any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any coasts, bays, creeks, or harbors whatever, in any part of His Majesty's dominions in America, not included within the limits specified in the first article of the said convention, are liable to seizure; and whereas the United States did, by the said convention, renounce forever any liberty enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *Provided, however*, That the American fishermen should be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever, but under such restrictions as might be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them; and whereas no rules or regulations have been made for such purpose, and the interests of the inhabitants of this island are materially impaired; whereas the said act does not designate the persons who are to make such seizure aforesaid, and it frequently happens that persons found within the distances of the coasts aforesaid, infringing the articles of the convention aforesaid, and the enactments of the statute aforesaid, on being taken possession of profess to have come within said limits for the purpose of shelter and repairing damages therein, or to purchase wood and obtain water, by which the law is evaded, and the vessels and cargoes escape confiscation, although the cargoes may be evidently intended to be smuggled into this island, and the fishery carried on contrary to the said convention and statute:

And after the passing of this act, it shall be lawful for the officers of Her Majesty's Customs, the officers of imposts and excise, the sheriffs and magistrates throughout this island, and any person holding a commission for that purpose from his excellency the Lieutenant-governor, for the time being, to go on board any ship, vessel, or boat within any port, bay, creek, or harbor in this island, and also to go on board any

ship, vessel, or boat hovering within three marine miles of any of the coasts, bays, creeks, or harbors thereof, and in either case freely to stay on board such ship, vessel or boat, as long as she shall remain within such port or distance, and if any such ship, vessel, or boat be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for any of the above enumerated officers or persons to bring such ship, vessel, or boat into port, and to search and examine her cargo and to examine the master upon oath, touching the cargo and voyage, and if there be any goods on board prohibited to be imported into this island, such ship, vessel, or boat, and the cargo laden on board thereof, shall be forfeited; and if the said ship, vessel, or boat shall be foreign, and not navigated according to the law of Great Britain and Ireland, and shall have been found fishing or preparing to fish, or to have been fishing, within such distance of such coasts, bays, creek, or harbors of this island, such ship, vessel, or boat, and their respective cargoes shall be forfeited, and if the master or person in command thereof shall not truly answer the questions which shall be demanded of him in such examination, he shall forfeit the sum of one hundred pounds.

II. *And be it further enacted*, That all goods, ships, vessels, and boats liable to forfeiture under this act shall, and may be, seized and secured by any such officer of Her Majesty's customs, officer of imposts and excise, sheriffs, magistrates, or other person holding such commission as aforesaid; and every person who shall in any way oppose, molest, or obstruct any officer of the customs, officer of impost and excise, sheriff, magistrate, or other person so commissioned and employed as aforesaid, in the exercise of his office, or shall in any way oppose, molest, or obstruct any person acting in aid or assistance of such officer of customs, officer of imposts and excise, sheriff, magistrate, or other person so commissioned and employed as aforesaid, shall, for every such offense, forfeit the sum of two hundred pounds.

III. *And be it further enacted*, That all goods, ships, vessels, and boats which shall be seized as being liable to forfeiture under this act shall be taken forthwith and delivered into the custody of the collector of customs at the custom-house next to the place where the same was seized, who shall secure and keep the same in such manner as other vessels and goods seized are directed to be secured by the commissioners of Her Majesty's customs.

IV. *And be it further enacted*, That all goods, ships, vessels, boats, or other things which shall have been condemned as forfeited under this act shall, under the direction of the principal officer of the customs or excise, where such seizure shall have been secured, be sold by public auction to the best bidder, and the produce of such sale to be applied as follows, that is to say, the amount chargeable for the custody of said goods, ship, vessel, boat, or any other thing so seized as aforesaid, shall be first deducted and paid, and the residue divided into two equal moieties, one of which shall be paid to the officer or other person or persons legally seizing the same without deduction, and the other moiety to the Government, and paid into the treasury of this island, all costs incurred having been first deducted therefrom: *Provided always*, That it shall be lawful for the lieutenant-governor, in council, to direct that any of such things shall be destroyed, or reserved for the public service.

V. *And be it further enacted*, That all penalties and forfeitures, which may be hereafter incurred under this act, shall and may be prosecuted, sued for, and recovered, in the court of vice-admiralty having jurisdiction in this island.

VI. *And be it further enacted*, That if any goods, or any ship, vessel or boat shall be seized as forfeited under this act, it shall be lawful for the judge or judges of any court having jurisdiction to try and determine such seizures, with the consent of the person seizing the same, to order the delivery thereof, on security, by bond, with two sufficient sureties, to be first approved by such seizing officer or person, to answer double the value of the same in case of condemnation, and such bond shall be taken to the use of Her Majesty, in the name of the collector of the customs, in whose custody the goods, or ship, vessel, or boat may be lodged, and such bond shall be delivered and kept in the custody of such collector; and in case the goods, or ship, vessel, or boat shall be condemned, the value thereof shall be paid into the hands of such collector, who shall cancel such bond, and distribute the money paid in such manner as is above directed.

VII. *And be it further enacted*, That no suit shall be commenced for the recovery of any penalty or forfeiture under this act, except in the name of Her Majesty, and shall be prosecuted by Her Majesty's advocate or attorney general, or in his absence, by the solicitor-general for this island; and if any question shall arise, whether any person is an officer of the customs, excise, sheriff, magistrate, or other person authorized to seize as aforesaid, *viva voce* evidence may be given of such fact, and it shall be deemed legal and sufficient evidence.

VIII. *And be it further enacted*, That if any goods, ship, vessel, or boat shall be seized for any cause or forfeiture under this act, and any dispute shall arise whether the same have been lawfully seized, the proof touching the illegality thereof shall be

XVII. *And be it further enacted*, That no appeal shall be prosecuted from any decree or sentence of any of Her Majesty's courts in this island touching any penalty or forfeiture imposed by this act unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced.

XVIII. *And be it further enacted*, That this act shall not go into force or be of any effect until Her Majesty's assent shall be signified thereto and an order made by Her Majesty in council that the clauses and provisions in this act shall be rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbors of the island of Prince Edward.

This act received the royal allowance on the 3d of September, 1844, and an order was on the same day made by Her Majesty in council declaring that its clauses and provisions should be the rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbors of the island of Prince Edward; and notification of said royal assent and of the said order was published in the Royal Gazette, a newspaper of this island, on the 8th day of October, 1844.

31 VICTORIA, CHAP. 61.

AN ACT respecting fishing by foreign vessels. Assented to 22d May, 1868.

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. The governor may, from time to time, grant to any foreign ship, vessel, or boat, or to any ship, vessel, or boat not navigated according to the laws of the United Kingdom, or of Canada, at such rate, and for such period not exceeding one year, as he may deem expedient, a license to fish for or take, dry or cure any fish of any kind whatever, in British waters, within three marine miles of any of the coasts, bays, creeks, or harbors whatever, of Canada, not included within the limits specified and described in the first article of the convention between his late Majesty King George the Third and the United States of America, made and signed at London on the 8th day of October, 1818.

2. Any commissioned officer of Her Majesty's navy serving on board of any vessel of Her Majesty's navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat within any harbor in Canada or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, and stay on board so long as he may remain within such place or distance.

3. If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor or so hovering for 24 hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit \$400; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the first section of this act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

4. All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo liable to forfeiture under this act may be seized and secured by any officers or persons mentioned in the second section of this act; and every person opposing any officer or person in execution of his duty under this act, or aiding or abetting any other person in any opposition, shall forfeit \$300, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years.

5. Goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized as liable to forfeiture under this act, shall be forthwith delivered into the custody of the collector or other principal officer of the customs at the port nearest to the place where seized, to be secured and kept as other goods,

ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized are directed by the laws in force in the province in which such person is situated, to be secured and kept, or into such other custody and keeping as the governor in council, or a court of vice-admiralty shall order.

6. All goods, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo, condemned as forfeited under this act, shall, by direction of the collector or other principal officer of the customs at the port where the seizure has been secured, be sold at public auction, and the proceeds of such sale shall be applied as follows: The amount chargeable for the custody of the property seized shall first be deducted and paid over for that service; one-half of the remainder shall be paid without deduction, to the officer or person seizing the same, and the other half, after first deducting therefrom all costs incurred, shall be paid to the receiver-general of Canada, through the department of marine and fisheries; but the governor in council may, nevertheless, direct that any ship, vessel, boat, or goods, and the tackle, rigging, apparel, furniture, stores, and cargo seized and forfeited, shall be destroyed or be reserved for the public service.

7. Any penalty or forfeiture under this act may be prosecuted and recovered in any court or vice-admiralty within Canada.

8. The judge of the court of vice-admiralty may, with the consent of the person seizing any goods, ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo, as forfeited under this act, order the redelivery thereof, on security by bond to be given by the party, with two sureties, to the use of Her Majesty, and in case any goods, ship, vessel, or boat, or the tackle, rigging, apparel, furniture, stores, and cargo so redelivered is condemned as forfeited, the value thereof shall be paid into court, and distributed as above directed.

9. Her Majesty's attorney-general for Canada may sue for and recover in Her Majesty's name any penalty or forfeiture incurred under this act.

10. In case a dispute arises as to whether any seizure has or has not been legally made, or as to whether the person seizing was or was not authorized to seize under this act, oral evidence may be heard thereupon, and the burden of proving the illegality of the seizure shall be upon the owner or claimant.

11. No claim to anything seized under this act and returned into any court of vice-admiralty for adjudication shall be admitted unless the claim be entered under oath, with the name of the owner, his residence and occupation, and the description of the property claimed, which oath shall be made by the owner, his attorney, or agent, and to the best of his knowledge and belief.

12. No person shall enter a claim to anything seized under this act until security has been given in a penalty not exceeding two hundred and forty dollars to answer and pay costs occasioned by such claim, and in default of security the things seized shall be adjudged forfeited, and shall be condemned.

13. No writ shall be sued out against any officer or other person authorized to seize under this act for anything done under this act, until one month after notice in writing delivered to him or left at his usual place of abode by the person intending to sue out such writ, his attorney or agent; in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney or agent, and no evidence of any cause of action shall be produced except such as shall be contained in such notice.

14. Every such action shall be brought within three months after the cause thereof has arisen.

15. If on any information or suit brought to trial under this act on account of any seizure, judgment shall be given for the claimant, and the judge or court shall certify on the record that there was probable cause of seizure, the claimant shall not recover costs, nor shall the person who made the seizures be liable to any indictment or suit on account thereof; and if any suit or prosecution be brought against any person on account of any seizure under this act, and judgment be given against him, and the court or judge shall certify that there was probable cause for the seizure, then the plaintiff, besides the thing seized or its value, shall not recover more than three and a half cents damages, nor any costs of suit, nor shall the defendant be fined more than twenty cents.

16. Any officer or person who has made a seizure under this act may, within one month after notice of action received, tender amends to the party complaining, or to his attorney or agent, and may plead such tender.

17. All actions for the recovery of penalties or forfeitures imposed by this act may be commenced within three years after the offense committed.

18. No appeal shall be prosecuted from any decree, or sentence of any court touching any penalty or forfeiture imposed by this act, unless the inhibition be applied for, and decreed within twelve months from the decree or sentence being pronounced.

19. In cases of seizure under this act, the governor in council may, by order, direct a stay of proceedings; and in cases of condemnation may relieve from the penalty in whole or in part, and on such terms as may be deemed right.

30. The several boats in or upon the coast of the province in respect to any foreign ship, and any penalty or one of the superior may arise.

31. Neither the series), "Of the Province of Nova Scotia, chapter thirty-five of New Brunswick, mine, entitled "An Act, shall apply chapter and of each act, is hereby declar

AN ACT to amend

Whereas it is expedient that the laws of Canada against fishing by foreigners, therefore, Her Majesty's attorney-general of commons of Canada.

1. The third section of the following section is

3. "Any one of such vessel, or boat being within three marine miles from the coast, and carrying on board cargo and voyaging, the question of such ship, vessel, or boat being in the United Kingdom, or having been fishing in bays, creeks, or harbours, without a license granted to such ship, vessel, or boat, shall be forfeited, and the value thereof shall be forfeited to the crown."

2. This act shall be in force from the first day of January, 1872.

3. This act shall be in force from the first day of January, 1872.

4. This act shall be in force from the first day of January, 1872.

5. This act shall be in force from the first day of January, 1872.

6. This act shall be in force from the first day of January, 1872.

7. This act shall be in force from the first day of January, 1872.

8. This act shall be in force from the first day of January, 1872.

9. This act shall be in force from the first day of January, 1872.

10. This act shall be in force from the first day of January, 1872.

11. This act shall be in force from the first day of January, 1872.

12. This act shall be in force from the first day of January, 1872.

13. This act shall be in force from the first day of January, 1872.

14. This act shall be in force from the first day of January, 1872.

15. This act shall be in force from the first day of January, 1872.

16. This act shall be in force from the first day of January, 1872.

17. This act shall be in force from the first day of January, 1872.

18. This act shall be in force from the first day of January, 1872.

19. This act shall be in force from the first day of January, 1872.

20. This act shall be in force from the first day of January, 1872.

21. This act shall be in force from the first day of January, 1872.

22. This act shall be in force from the first day of January, 1872.

23. This act shall be in force from the first day of January, 1872.

24. This act shall be in force from the first day of January, 1872.

25. This act shall be in force from the first day of January, 1872.

S. Ex. 113-

20. The several provisions of this act shall apply to any foreign ship, vessel, or boat in or upon the inland waters of Canada; and the provisions hereinbefore contained in respect to any proceedings in a court of vice-admiralty shall, in the case of any foreign ship, vessel, or boat, in or upon the inland waters of Canada, apply to, and any penalty or forfeiture in respect thereof shall be prosecuted and recovered in one of the superior courts of the province within which such cause of prosecution may arise.

21. Neither the ninety-fourth chapter of the Revised Statutes of Nova Scotia (third series), "Of the coast and deep-sea fisheries," nor the act of the legislature of the Province of Nova Scotia, passed in the twenty-ninth year of Her Majesty's reign, chapter thirty-five amending the same, nor the act of the legislature of the province of New Brunswick passed in the sixteenth year of Her Majesty's reign, chapter sixty-nine, entitled "An act relating to the coast fisheries and for the prevention of illicit trade," shall apply to any case to which this act applies; and so much of the said chapter and of each of the said acts as makes provision for cases provided for by this act, is hereby declared to be inapplicable to such cases.

33 VICTORIA, CHAP. 15.

AN ACT to amend the act respecting fishing by foreign vessels. Assented to 12th May, 1870.

Whereas it is expedient, for the more effectual protection of the in-shore fisheries of Canada against intrusion by foreigners, to amend the act entitled "An act respecting fishing by foreign vessels," passed in the thirty-first year of Her Majesty's reign: Therefore, Her Majesty by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. The third section of the above cited act shall be, and is hereby repealed, and the following section is enacted in its stead:

3. "Any one of such officers or persons as are above-mentioned may bring any ship, vessel, or boat being within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, into port, and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master, or person in command, shall not truly answer the questions put to him in such examination, he shall forfeit \$400; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom, or of Canada, and have been found fishing, or preparing to fish, or have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat, under the first section of this act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited."

2. This act shall be construed as one with the said act "respecting fishing by foreign vessels."

34 VICTORIA, CHAP. 23.

AN ACT further to amend the act respecting fishing by foreign vessels. Assented to April 14, 1871.

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. The fifth section of the act respecting fishing by foreign vessels, passed in the thirty-first year of Her Majesty's reign, chapter sixty-one, is hereby repealed, and the following section is hereby enacted in its stead:

15. Goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized as liable to forfeiture under this act shall be forthwith delivered into the custody of such fishery officer, or customs officer, or other person as the minister of marine and fisheries may from time to time direct, or retained by the officer making the seizure in his own custody, if so directed by the minister, in either case to be secured and kept as other goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized are directed by the laws in force in the province in which the seizure is made, to be secured and kept."

2. The sixth section of the said act is hereby repealed, and the following section is hereby enacted in its stead:

16. All goods, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo condemned as forfeited under this act, shall be sold by public auction, by direction of the officer having the custody thereof, under the provisions of the next preceding section of this act, and under regulations to be from time to time made by the governor in council; and the proceeds of every such sale shall be subject to the control of the minister of marine and fisheries, who shall first pay therefrom all neq-

essary costs and expenses of custody and sale, and the governor in council may from time to time apportion three-fourths or less of the net remainder among the officers and crew of any Queen's ship or Canadian Government vessel, from on board of which the seizure was made, as he may think right, reserving for the Government and paying over to the receiver-general at least one-fourth of such net remainder to form part of the consolidated revenue fund of Canada; but the governor in council may nevertheless, direct that any goods, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo, seized and forfeited, shall be destroyed, or be reserved for the public service."

3. This act shall be construed as one with the act hereby amended; and the sixth section of the said act, as contained in the second section of this act, shall apply to all goods, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo, condemned under the said act before the passing of this act, and to the proceeds of the sale thereof, remaining to be applied and paid at the time of the passing of this act.

46 VICTORIA, CHAP. 27.

AN ACT to extend to British Columbia the act relating to fishing by foreign vessels. Assented to 25th May, 1883.

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. The act thirty-first Victoria, chapter sixty-one, intituled "An act respecting fishing by foreign vessels," is hereby extended to the Province of British Columbia.

No. 16.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, July 2, 1886.

SIR: It is my unpleasant duty promptly to communicate to you the telegraphic report to me by the United States consul-general at Halifax, that the schooner *City Point*, of Portland, Me., arrived at the port of Shelburne, Nova Scotia, landed two men, obtained water, and is detained by the authorities until further instructions are received from Ottawa.

The case as thus reported is an infringement on the ordinary rights of international hospitality, and constitutes a violation of treaty stipulations and commercial privileges, evincing such unfriendliness to the citizens of the United States as is greatly to be deplored, and which I hold it to be the responsible duty of the Government of Great Britain promptly to correct.

I have, &c.,

T. F. BAYARD.

No. 17.

Sir L. West to Mr. Bayard.

WASHINGTON, July 3, 1886. [Received July 6.]

SIR: I have the honor to acknowledge the receipt of your note of the 2d, reporting the detention of the American schooner *City Point*, of Portland, Me., by the authorities of Shelburne, Nova Scotia:

I have, &c.,

L. S. SACKVILLE WEST.

No. 18.

Sir L. West to Mr. Bayard.

WASHINGTON, July 3, 1886. [Received July 6.]

SIR: With reference to your note of the 29th of May, I have the honor to inform you that I am instructed by the Earl of Rosebery to state that the matters therein referred to will receive the careful attention of Her Majesty's Government after the necessary communication with the Dominion Government.

I have, &c.,

L. S. SACKVILLE WEST.

No. 19.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,
Washington, July 10, 1886.

SIR: On the 2d of June last I had the honor to inform you that dispatches from Eastport in Maine had been received, reporting threats by the customs officials of the Dominion to seize American boats coming into those waters to purchase herring from the Canadian weirs for the purpose of canning the same as sardines, which would be a manifest infraction of the right of purchase and sale of herring caught and sold by Canadians in their own waters—in the pursuance of legitimate trade.

To this note I have not had the honor of a reply.

To-day Mr. C. A. Boutelle, M. C. from Maine, informs me that American boats visiting St. Andrews, New Brunswick, for the purpose of there purchasing herring from the Canadian weirs, for canning, had been driven away by the Dominion cruiser Middleton.

Such inhibition of usual and legitimate commercial contracts and intercourse is assuredly without warrant of law, and I draw your attention to it in order that the commercial rights of citizens of the United States may not be thus invaded and subjected to unfriendly discrimination.

I have, &c.,

T. F. BAYARD.

No. 20.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,
Washington, July 10, 1886.

SIR: I have the honor to inform you that I am in receipt of a report from the consul-general of the United States at Halifax, accompanied by sworn testimony stating that the Novelty, a duly registered merchant steam-vessel of the United States, has been denied the right to take in steam-coal, or purchase ice, or transship fish in bond to the United States, at Pictou, Nova Scotia.

It appears that, having reached that port on the 1st instant and finding the customs office closed on account of a holiday, the master of the *Novelty* telegraphed to the minister of marine and fisheries at Ottawa, asking if he would be permitted to do any of the three things mentioned above; that he received, in reply, a telegram reciting with certain inaccurate and extended application the language of Article I of the treaty of 1818, the limitations upon the significance of which are in pending discussion between the Government of the United States and that of Her Britannic Majesty; that on entering and clearing the *Novelty* on the following day at the custom-house, the collector stated that his instructions were contained in the telegram the master had received; and that, the privilege of coaling being denied, the *Novelty* was compelled to leave Pictou without being allowed to obtain fuel necessary for her lawful voyage on a dangerous coast.

Against this treatment I make instant and formal protest as an unwarranted interpretation and application of the treaty by the officers of the Dominion of Canada and the Province of Nova Scotia, as an infraction of the laws of commercial and maritime intercourse existing between the two countries, and as a violation of hospitality, and for any loss or injury resulting therefrom the Government of Her Britannic Majesty will be held liable.

I have, &c.,

T. F. BAYARD.

No. 21.

Mr. Hardinge to Mr. Bayard.

BRITISH LEGATION,
Washington, July 12, 1886. [Received July 13.]

SIR: I have the honor to acknowledge the receipt of your letter to Sir Lionel West, of the 10th instant, protesting against the interference of the Dominion cruiser *Middleton* in preventing American boats from visiting St. Andrews, New Brunswick, for the purpose of there purchasing herring from the Canadian weirs for canning, and I have the honor to state that I will not fail to acquaint Her Majesty's Government with your views on this subject.

I have, &c.,

CHARLES HARDINGE.

No. 22.

Mr. Hardinge to Mr. Bayard.

BRITISH LEGATION,
Washington, July 12, 1886. [Received July 13.]

SIR: I have the honor to acknowledge the receipt of your note to Sir L. West of the 10th instant, protesting against the proceedings of the Canadian authorities at Pictou, Nova Scotia, in denying to the steam-vessel *Novelty*, of the United States, the right to take in steam-coal, purchase ice, or transship fish in bond to the United States.

I have, &c.,

CHARLES HARDINGE.

No. 23.

*Mr. Bayard to Mr. Hardinge.*DEPARTMENT OF STATE,
Washington, July 16, 1886.

SIR: I have just received through the honorable U. A. Boutelle, M. C., the affidavit of Stephen R. Balkam, alleging his expulsion from the harbor of St. Andrews, New Brunswick, by Captain Kent, of the Dominion cruiser Middleton, and the refusal to permit him to purchase fish caught and sold by Canadians, for the purpose of canning as sardines.

The action of Captain Kent seems to be a gross violation of ordinary commercial privileges against an American citizen proposing to transact his customary and lawful trade and not prepared or intending in any way to fish or violate any local law or regulation or treaty stipulation.

I trust instant instructions to prevent the recurrence of such unfriendly and unlawful treatment of American citizens may be given to the offending officials at St. Andrews, and reparation be made to Mr. Balkam.

I have, &c.,

T. F. BAYARD.

No. 24.

*Mr. Hardinge to Mr. Bayard.*BRITISH LEGATION,
Washington, July 17, 1886. [Received July 19.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, protesting against the action of Captain Kent, of the Dominion cruiser General Middleton, in expelling Stephen R. Balkam from the harbor of St. Andrews, New Brunswick, and in refusing to permit him to purchase fish, caught and sold by Canadians, for the purpose of canning as sardines.

I have, &c.,

CHARLES HARDINGE.

No. 25.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,
Washington, July 30, 1886.

SIR: It is my duty to draw your attention to an infraction of the stipulations of the treaty between the United States of America and Great Britain, concluded October 20, 1818.

By the provisions of Article I of that convention the liberty to take fish of every kind, forever, in common with the subjects of His Britannic Majesty is secured to the inhabitants of the United States "on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern coast of New-

foundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands," and on the other coasts and shores in the said article set forth.

Notwithstanding these plain provisions, I regret to be obliged to inform you that by the affidavit of the master of the American fishing vessel Thomas F. Bayard, that being at Bonne Bay, which is on the western coast of Newfoundland within the limits specified in Article I of the convention referred to, the master of the said vessel was formally notified by one N. N. Taylor, the officer of customs at that point, that his vessel would be seized if he attempted to obtain a supply of fish for bait or for any other transaction in connection with fishing operations within three marine miles of that coast.

To avoid the seizure of his vessel the master broke up his voyage and returned home.

I am also in possession of the affidavit of Alexander T. Eachern, master of the American fishing schooner Mascot, who entered Port Amherst, Magdalen Islands, and was there threatened by the customs official with seizure of his vessel if he attempted to obtain bait for fishing or to take a pilot.

These are flagrant violations of treaty rights of their citizens for which the United States expect prompt remedial action by Her Majesty's Government; and I have to ask that such instructions may be issued forthwith to the provincial officials of Newfoundland and of the Magdalen Islands as will cause the treaty rights of citizens of the United States to be duly respected.

For the losses occasioned in the two cases I have mentioned, compensation will hereafter be expected from Her Majesty's Government when the amount shall have been accurately ascertained.

I have, &c.,

T. F. BAYARD.

No. 26.

Mr. Hardinge to Mr. Bayard.

BRITISH LEGATION,

Washington, July 31, 1886. [Received August 2.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, drawing my attention to an alleged infraction of the stipulations of the treaty of October 20, 1818, by the Newfoundland authorities at Bonne Bay, in threatening the master of the American fishing vessel Thomas F. Bayard with seizure of his ship in case of his attempting to obtain fish for bait or for any other transaction in connection with fishing operations within three marine miles of that coast; also, to the case of the United States fishing schooner Mascot, at Port Amherst, Magdalen Islands.

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CHARLES HARDINGE.

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No. 27.

*Mr. Hardinge to Mr. Bayard.*BRITISH LEGATION,
Washington, August 2, 1886. [Received August 3.]

SIR: With reference to the several communications received by Her Majesty's legation referring to the action of the Canadian authorities in connection with the present position of the North American fisheries question, I have the honor to forward to you herewith, in compliance with instructions which I have received from the Earl of Rosebery, printed copies of three dispatches and their inclosures addressed by his lordship to Her Majesty's minister on the 23d ultimo, stating the views of Her Majesty's Government, in reply to your notes to Sir L. West of the 10th, 20th, 29th May, and 14th June.

I have, &c.,

CHARLES HARDINGE.

re No. 1, with Mr. Hardinge's note of August 2, 1886.]

The Earl of Rosebery to Sir L. West.

FOREIGN OFFICE, July 23, 1886.

SIR: I have received your dispatch No. 28 (treaty), of the 11th of May last, inclosing a copy of a note addressed to you by Mr. Bayard, in which, whilst expressly referring to the seizure by the Canadian authorities of the American fishing vessels Joseph Story and David J. Adams, he discusses at length the present position of the North American fisheries question.

I have also received a communication upon the same subject from the United States minister at this court, dated the 2d June last, which, although advancing arguments of a somewhat different character, is substantially addressed to the consideration of the same question.

I think it therefore desirable to reply to these two communications together in the present dispatch, of which I shall hand a copy to Mr. Phelps.

The matter is one involving the gravest interests of Canada; and, upon receipt of the communications above mentioned, I lost no time in requesting the secretary of state for the colonies to obtain from the Government of the Dominion an expression of their views thereon. I now inclose a copy of an approved report of the Canadian privy council, in which the case of Canada is so fully set forth that I think it would be desirable, as a preliminary step to the further discussion of the questions involved in this controversy, to communicate a copy of it to Mr. Bayard, as representing the views of the Dominion Government; and I have to request that, in so doing, you will state that Her Majesty's Government will be glad to be favored with any observations which Mr. Bayard may desire to make thereon.

In regard to those portions of Mr. Phelps's note of the 2d June, in which he calls in question the competence of the Canadian authorities under existing statutes, whether imperial or colonial, to effect seizures of United States fishing vessels under circumstances such as those which appear to have led to the capture of the David J. Adams, I have to observe that Her Majesty's Government do not feel themselves at present in a position to discuss that question, which is now occupying the attention of the courts of law in the Dominion, and which may possibly form the subject of an appeal to the judicial committee of Her Majesty's privy council in England.

It is believed that the courts in Canada will deliver judgment in the above cases very shortly; and until the legal proceedings now pending have been brought to a conclusion, Her Majesty's Government do not feel justified in expressing an opinion upon them, either as to the facts or the legality of the action taken by the colonial authorities.

I do not, therefore, conceive it to be at present necessary to make any specific reply to Mr. Bayard's further notes of the 11th and 12th May and 1st, 2d, and 7th June last. But with regard to his note of the 20th May, relative to the seizure of the United States fishing vessel Jennie and Julia, I inclose for communication to Mr. Bayard a copy of a report from the Canadian minister of marine and fisheries dealing with this case.

I cannot, however, close this dispatch without adding that Her Majesty's Government entirely concur in that passage of the report of the Canadian privy council, in which it is observed that "if the provisions of the convention of 1818 have become inconvenient to either contracting party, the utmost that good-will and fair dealing can suggest is that the terms shall be reconsidered."

It is assuredly from no fault on the part of Her Majesty's Government that the question has now been relegated to the terms of the convention of 1818. They have not ceased to express their anxiety to commence negotiations, and they are now prepared to enter upon a frank and friendly consideration of the whole question with the most earnest desire to arrive at a settlement consonant alike with the rights and interests of Canada and of the United States.

Where, as in the present case, conflicting interests are brought into antagonism by treaty stipulations the strict interpretation of which has scarcely been called in question, the matter appears to Her Majesty's Government to be pre-eminently one for friendly negotiation.

I am, &c.

[Inclosure 1 in No. 1.]

Report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general on the 14th June, 1886.

The committee of the privy council have had under consideration a report from the minister of marine and fisheries upon the communications dated 10th and 20th May last from the Hon. Mr. Bayard, Secretary of State of the United States, to Her Majesty's minister at Washington, in reference to the seizure of the American fishing vessel David J. Adams.

The committee concur in the annexed report, and they advise that your excellency be moved to transmit a copy thereof to the Right Hon. the Secretary of State for the Colonies.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk, Privy Council, Canada.

The undersigned having had his attention called by your excellency to a communication from Mr. Bayard, Secretary of State of the United States, dated the 10th May, and addressed to Her Majesty's minister at Washington, and to a further communication from Mr. Bayard, dated the 20th May instant, in reference to the seizure of the American fishing vessel David J. Adams, begs leave to submit the following observations thereon:

Your excellency's Government fully appreciates and reciprocates Mr. Bayard's desire that the administration of the laws regulating the commercial interests and the mercantile marine of the two countries might be such as to promote good feeling and mutual advantage.

Canada has given many indisputable proofs of an earnest desire to cultivate and extend her commercial relations with the United States, and it may not be without advantage to recapitulate some of those proofs.

For many years before 1854 the maritime provinces of British North America had complained to Her Majesty's Government of the continuous invasion of their inshore fisheries (sometimes accompanied, it was alleged, with violence) by American fishermen and fishing vessels.

Much irritation naturally ensued, and it was felt to be expedient by both Governments to put an end to this unseemly state of things by treaty, and at the same time to arrange for enlarged trade relations between the United States and the British North American colonies. The reciprocity treaty of 1854 was the result, by which were not only our inshore fisheries opened to the Americans, but provision was made for the free interchange of the principal natural products of both countries, including those of the sea. Peace was preserved on our waters, and the volume of international trade steadily increased during the existence of this treaty, and until it was terminated in 1866, not by Great Britain, but by the United States.

In the following year Canada (then become a dominion and united to Nova Scotia and New Brunswick) was thrown back on the convention of 1818, and obliged to fit out a marine police to enforce the laws and defend her rights, still desiring, however, to cultivate friendly relations with her great neighbor, and not too suddenly to deprive the American fishermen of their accustomed fishing grounds and means of livelihood. She readily acquiesced in the proposal of Her Majesty's Government for the tempo-

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rary issue of annual licenses to fish on payment of a moderate fee. Your excellency is aware of the failure of that scheme. A few licenses were issued at first, but the applications for them soon ceased, and the American fishermen persisted in forcing themselves into our waters "without leave or license."

Then came the recurrence, in an aggravated form, of all the troubles which had occurred anterior to the reciprocity treaty. There were invasions of our waters, personal conflicts between our fishermen and American crews, the destruction of nets, the seizure and condemnation of vessels, and intense consequent irritation on both sides.

This was happily put an end to by the Washington treaty of 1871. In the interval between the termination of the first treaty and the ratification of that by which it was eventually replaced, Canada on several occasions pressed, without success, through the British minister at Washington, for a renewal of the reciprocity treaty or for the negotiation of another on a still wider basis.

When in 1874 Sir Edward Thornton, then British minister at Washington, and the late Hon. George Brown, of Toronto, were appointed joint plenipotentiaries for the purpose of negotiating and concluding a treaty relating to fisheries, commerce, and navigation, a provisional treaty was arranged by them with the United States Government, but the Senate decided that it was not expedient to ratify it, and the negotiation fell to the ground.

The treaty of Washington, while it failed to restore the provisions of the treaty of 1854, for reciprocal free trade (except in fish), at least kept the peace, and there was tranquillity along our shores until July, 1885, when it was terminated again by the United States Government and not by Great Britain.

With a desire to show that she wished to be a good neighbor, and in order to prevent loss and disappointment on the part of the United States fishermen by their sudden exclusion from her waters in the middle of the fishing season, Canada continued to allow them, for six months, all the advantages which the rescinded fishery clauses had previously given them, although her people received from the United States none of the corresponding advantages which the treaty of 1871 had declared to be an equivalent for the benefits secured thereby to the American fishermen.

The President, in return for this courtesy, promised to recommend to Congress the appointment of a joint commission of the two Governments of the United Kingdom and the United States to consider the fishery question, with permission also to consider the whole state of trade relations between the United States and Canada.

This promise was fulfilled by the President, but the Senate rejected his recommendation and refused to sanction the commission.

Under these circumstances Canada, having exhausted every effort to procure an amicable arrangement, has been driven again to fall back upon the convention of 1818, the provisions of which she is now enforcing and will enforce, in no punitive or hostile spirit as Mr. Bayard supposes, but solely in protection of her fisheries, and in vindication of the right secured to her by treaty.

Mr. Bayard suggests that "the treaty of 1818 was between two nations—the United States of America and Great Britain—who, as the contracting parties, can alone apply authoritative interpretation thereto, and enforce its provisions by appropriate legislation."

As it may be inferred from this statement that the right of the Parliament of Canada to make enactments for the protection of the fisheries of the Dominion, and the power of the Canadian officers to protect those fisheries, are questioned, it may be well to state at the outset the grounds upon which it is conceived by the undersigned that the jurisdiction in question is clear beyond a doubt.

I. In the first place the undersigned would ask it to be remembered that the extent of the jurisdiction of the Parliament of Canada is not limited (nor was that of the Provinces before the union) to the sea-coast, but extends for three marine miles from the shore as to all matters over which any legislative authority can in any country be exercised within that space. The legislation which has been adopted on this subject by the Parliament of Canada (and previously to confederation by the Provinces) does not reach beyond that limit. It may be assumed that, in the absence of any treaty stipulation to the contrary, this right is so well recognized and established by both British and American law, that the grounds on which it is supported need not be stated here at large. The undersigned will merely add, therefore, to this statement of the position, that so far from the right being limited by the convention of 1818 that convention expressly recognizes it.

After renouncing the liberty to "take, cure, or dry fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Majesty's dominions in America," there is a stipulation that while American fishing vessels shall be admitted to enter such bays, &c., "for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, they shall be under such restrictions as may be necessary to prevent their taking, curing, or drying fish therein, or in any other manner whatever abusing the privileges reserved to them."

2. Appropriate legislation on this subject was, in the first instance, adopted by the Parliament of the United Kingdom. The imperial statute 59 Geo. III, cap. 38, was enacted in the year following the convention, in order to give that convention force and effect. That statute declared that, except for the purposes before specified, it should "not be lawful for any person or persons, not being a natural-born subject of His Majesty, in any foreign ship, vessel, or boat, nor for any person in any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish for, or to take, dry, or cure any fish of any kind whatever within three marine miles of any coasts, bays, creeks, or harbors whatever, in any part of His Majesty's dominions in America, not included within the limits specified and described in the first article of the said convention, and that if such foreign ship, vessel, or boat, or any person or persons on board thereof shall be found fishing, or to have been fishing, or preparing to fish within such distance of such coasts, bays, creeks, or harbors within such parts of His Majesty's dominions in America, out of the said limits as aforesaid, all such ships, vessels, and boats, together with their cargoes, and all guns, ammunition, tackle, apparel, furniture, and stores, shall be forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered, and condemned by such and the like ways, means, and methods, and in the same courts as ships, vessels, or boats may be forfeited, seized, prosecuted, and condemned for any offense against any laws relating to the revenue of customs, or the laws of trade and navigation, under any act or acts of the Parliament of Great Britain or the United Kingdom of Great Britain and Ireland, provided that nothing contained in this act shall apply or be construed to apply to the ships or subjects of any prince, power, or state in amity with His Majesty who are entitled by treaty with His Majesty to any privileges of taking, drying, or curing fish on the coasts, bays, creeks, or harbors or within the limits in this act described. Provided always that it shall and may be lawful for any fishermen of the said United States to enter into any such bays or harbors of His Britannic Majesty's dominions in America as are last mentioned, for the purpose of shelter and repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever, subject nevertheless to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying, or curing fish in the said bays or harbors or in any other manner whatever, abusing the said privileges by the said treaty and this act reserved to them, and as shall, for that purpose, be imposed by any order or orders to be from time to time made by His Majesty in council under the authority of this act, and by any regulations which shall be issued by the governor or person exercising the office of governor in any such parts of His Majesty's dominions in America, under or in pursuance of any such order in council as aforesaid. And that if any person or persons upon requisition made by the governor of Newfoundland, or the person exercising the office of governor, or by any governor in person exercising the office of governor in any other parts of His Majesty's dominions in America, as aforesaid, or by any officer or officers acting under such governor or person exercising the office of governor, in the execution of any orders or instructions from His Majesty in council, shall refuse to depart from such bays or harbors, or if any person or persons shall refuse, or neglect, to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this act, every such person so refusing or otherwise offending against this act shall forfeit the sum of two hundred pounds, to be recovered in the superior court of judicature of the island of Newfoundland, or in the superior court of judicature of the colony or settlement within or near to which such offense shall be committed, or bill, plaint, or information in any of His Majesty's courts of record at Westminster, one moiety of such penalty to belong to His Majesty, his heirs, and successors, and the other moiety to such person or persons as shall sue or prosecute for the same."

The acts passed by the Provinces now forming Canada, and also by the Parliament of Canada (now noted in the margin)* are to the same effect, and may be said to be merely declaratory of the law as established by the imperial statute.

3. The authority of the legislatures of the Provinces, and, after confederation, authority of the Parliament of Canada, to make enactments to enforce the provisions of the convention, as well as the authority of Canadian officers to enforce those rests on well-known constitutional principles.

Those legislatures existed, and the Parliament of Canada now exists, by the authority of the Parliament of the United Kingdom of Great Britain and Ireland, which one of the nations referred to by Mr. Bayard as the "contracting parties." The local statutes have received the sanction of the British sovereign, who, and not the nation, is actually the party with whom the United States made the convention. The officers who are engaged in enforcing the acts of Canada or the laws of the empire, are Her Majesty's officers, whether their authority emanates directly from

*Dominion acts, 31 Vict., cap. 6; 33 Vict., cap. 16; now incorporated in Revised Statutes of Canada, cap. 90. Nova Scotia acts, Revised Statutes, 3d series, cap. 94, 29 Vict. (1866), cap. 35. New Brunswick acts, 16 Vict. (1853), cap. 60. Prince Edward Island acts, 6 Vict. (1843), cap. 14.

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Queen, or from her representative, the governor-general. The jurisdiction thus exercised cannot, therefore, be properly described in the language used by Mr. Bayard as a supposed and therefore questionable delegation of jurisdiction by the Imperial Government of Great Britain. Her Majesty governs in Canada as well as in Great Britain; the officers of Canada are her officers; the statutes of Canada are her statutes, passed on the advice of her Parliament sitting in Canada.

It is, therefore, an error to conceive that because the United States and Great Britain were, in the first instance, the contracting parties to the treaty of 1818, no question arising under that treaty can be "responsibly dealt with," either by the Parliament or by the authorities of the Dominion.

The raising of this objection now is the more remarkable, as the Government of the United States has long been aware of the necessity of reference to the colonial legislatures in matters affecting their interests.

The treaties of 1854 and 1871 expressly provide that, so far as they concerned the fisheries or trade relations with the provinces, they should be subject to ratification by their several legislatures; and seizures of American vessels and goods, followed by condemnation for breach of the provincial customs laws, have been made for forty years without protest or objection on the part of the United States Government.

The undersigned, with regard to this contention of Mr. Bayard, has further to observe that in the proceedings which have recently been taken for the protection of the fisheries, no attempt has been made to put any special or novel interpretation upon the convention of 1818. The seizures of the fishing vessels have been made in order to enforce the explicit provisions of that treaty, the clear and long established provisions of the imperial statute and of the statutes of Canada expressed in almost the same language.

The proceedings which have been taken to carry out the law of the Empire in the present case are the same as those which have been taken from time to time during the period in which the convention has been in force, and the seizures of vessels have been made under process of the imperial court of vice-admiralty established in the provinces of Canada.

Mr. Bayard further observes that since the treaty of 1818, "a series of laws and regulations affecting the trade between the North American provinces and the United States have been respectively adopted by the two countries, and have led to amicable and mutually beneficial relations between their respective inhabitants," and that "the independent and yet concurrent action of the two Governments has effected a gradual extension from time to time of the provisions of article 1 of the convention of the 3d of July, 1815, providing for reciprocal liberty of commerce between the United States and the territories of Great Britain in Europe, so as gradually to include the colonial possessions of Great Britain in North America and the West Indies within the limits of that treaty."

The undersigned has not been able to discover, in the instances given by Mr. Bayard, any evidence that the laws and regulations affecting the trade between the British North American Provinces and the United States, or that "the independent and yet concurrent action of the two Governments" have either extended or restricted the terms of the convention of 1818, or affected in any way the right to enforce its provisions according to the plain meaning of the articles of the treaty; on the contrary, reference to the eighteenth article of the Washington treaty will show that the contracting parties made the convention the basis of the further privileges granted by the treaty, and it does not allege that its provisions are in any way extended or affected by subsequent legislation or acts of administration.

Mr. Bayard has referred to the proclamation of President Jackson in 1830, creating reciprocal commercial intercourse on terms of perfect equality of flag" between the United States and the British American dependencies, and has suggested that these commercial privileges have since received a large extension, and that in some cases 'favours' have been granted by the United States without equivalent 'concession,' such as the exemption granted by the shipping act of the 26th June, 1884, amounting to one-half of the regular tonnage dues on all vessels from British North America and West Indies entering ports of the United States."

He has also mentioned under this head "the arrangement for the transit of goods, and the remission by proclamation as to certain British ports and places of the remainder of the tonnage tax on evidence of equal treatment being shown" to United States vessels.

The proclamation of President Jackson in 1830 had no relation to the subject of the fisheries, and merely had the effect of opening United States ports to British vessels on terms similar to those which had already been granted in British ports to vessels from the United States. The object of these "laws and regulations" mentioned by Mr. Bayard was purely of a commercial character, while the sole purpose of the convention of 1818 was to establish and define the rights of the citizens of the two countries in relation to the fisheries on the British North American coast.

Bearing this distinction in mind, however, it may be conceded that substantial assistance has been given to the development of commercial intercourse between the two countries.

But legislation in that direction has not been confined to the Government of the United States, as indeed Mr. Bayard has admitted in referring to the case of the imperial shipping and navigation act of 1849.

For upwards of forty years, as has already been stated, Canada has continued to evince her desire for a free exchange of the chief products of the two countries. She has repeatedly urged the desirability of the fuller reciprocity of trade which was established during the period in which the treaty of 1854 was in force.

The laws of Canada with regard to the registry of vessels, tonnage dues, and shipping generally, are more liberal than those of the United States. The ports of Canada in inland waters are free to vessels of the United States, which are admitted to the use of her canals on equal terms with Canadian vessels.

Canada allows free registry to ships built in the United States and purchased by British citizens, charges no tonnage or light dues on United States shipping, and extends a standing invitation for a large measure of reciprocity in trade by her latest legislation.

Whatever relevancy, therefore, the argument may have to the subject under consideration, the undersigned submits that the concessions which Mr. Bayard refers to as "favours" granted by United States can hardly be said not to have been met by equivalent concessions on the part of the Dominion, and inasmuch as the disposition of Canada continues to be the same, as was evinced in the friendly legislation just referred to, it would seem that Mr. Bayard's charges of showing "hostility to commerce under the guise of protection to inshore fisheries," or of interrupting ordinary commercial intercourse by harsh measures and unfriendly administration, is hardly justified.

The questions which were in controversy between Great Britain and the United States prior to 1818 related not to shipping and commerce, but to the claims of United States fishermen to fish in waters adjacent to the British North American Provinces.

Those questions were definitely settled by the convention of that year, and although the terms of that convention have since been twice suspended, first by the treaty of 1854, and subsequently by that of 1871, after the lapse of each of these treaties the provisions made in 1818 came again into operation, and were carried out by the Imperial and colonial authorities without the slightest doubt being raised as to their being in full force and vigor.

Mr. Bayard's contention that the effect of the legislation which has taken place under the convention of 1818, and of executive action thereunder, would be "to expand the restrictions and renunciations of that treaty which related solely to the inshore fishing within the three-mile limit, so as to affect the deep-sea fisheries," and "to diminish and practically destroy the privileges expressly secured to American fishing vessels to visit these inshore waters for the objects of shelter and repair of damages and purchasing wood and obtaining water," appears to the undersigned to be unfounded. The legislation referred to in no way affects those privileges, nor has the Government of Canada taken any action towards their restriction. In the cases of the recent seizures, which are the immediate subject of Mr. Bayard's letter, the vessels seized had not resorted to Canadian waters for any one of the purposes specified in the convention of 1818 as lawful. They were United States fishing vessels, and against the plain terms of the convention, had entered Canadian harbors. In doing so the David J. Adams was not even possessed of a permit "to touch and trade" even if such a document could be supposed to divest her of the character of a fishing vessel.

The undersigned is of opinion that while, for the reasons which he has advanced there is no evidence to show that the Government of Canada has sought to expand the scope of the convention of 1818 or to increase the extent of its restrictions, it would not be difficult to prove that the construction which the United States seek to place on that convention would have the effect of extending very largely the privileges which their citizens enjoy under its terms. The contention that the changes which may from time to time occur in the habits of the fish taken off our coasts, or the methods of taking them, should be regarded as justifying a periodical revision of the terms of the treaty, or a new interpretation of its provisions, cannot be accepted. Such changes may from time to time render the conditions of the contract inconvenient to one party or the other, but the validity of the agreement can hardly be said to depend on the convenience or inconvenience which it imposes from time to time on one or other of the contracting parties. When the operation of its provisions can be shown to have become manifestly inequitable, the utmost that good-will and fair dealing can suggest is that the terms should be reconsidered and a new arrangement entered into; but this the Government of the United States does not appear to have considered desirable.

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It is not, however, the case that the convention of 1818 affected only the inshore fisheries of the British Provinces; it was framed with the object of affording a complete and exclusive definition of the rights and liberties which the fishermen of the United States were thenceforward to enjoy in following their vocation, so far as those rights could be affected by facilities for access to the shores or waters of the British provinces, or for intercourse with their people. It is therefore no undue expansion of the scope of that convention to interpret strictly those of its provisions by which such access is denied, except to vessels requiring it for the purposes specifically described. Such an undue expansion would, upon the other hand, certainly take place if, under cover of its provisions, or of any agreements relating to general commercial intercourse which may have since been made, permission were accorded to United States fishermen to resort habitually to the harbors of the Dominion, not for the sake of seeking safety for their vessels or of avoiding risk to human life, but in order to use those harbors as a general base of operations from which to prosecute and organize with greater advantage to themselves the industry in which they are engaged.

It was in order to guard against such an abuse of the provisions of the treaty that amongst them was included the stipulation that not only should the inshore fisheries be reserved to British fishermen, but that the United States should renounce the right of their fishermen to enter the bays or harbors excepting for the four specified purposes, which do not include the purchase of bait or other appliances, whether intended for the deep-sea fisheries or not.

The undersigned, therefore, cannot concur in Mr. Bayard's contention that "to prevent the purchase of bait, or any other supply needed for deep-sea fishing, would be to expand the convention to objects wholly beyond the purview, scope, and intent of the treaty, and to give to it an effect never contemplated."

Mr. Bayard suggests that the possession by a fishing vessel of a permit to "touch and trade" should give her a right to enter Canadian ports for other than the purposes named in the treaty, or, in other words, should give her perfect immunity from its provisions. This would amount to a practical repeal of the treaty, because it would enable a United States collector of customs, by issuing a license, originally only intended for purposes of domestic customs regulation, to give exemption from the treaty to every United States fishing vessel. The observation that similar vessels under the British flag have the right to enter the ports of the United States for the purchase of supplies loses its force when it is remembered that the convention of 1818 contained no restriction on British vessels, and no renunciation of any privileges in regard to them.

Mr. Bayard states "that in the proceedings prior to the treaty of 1818 the British commissioners proposed that United States fishing vessels should be excluded "from carrying also merchandise," but that this proposition "being resisted by the American negotiators, was abandoned," and goes on to say, "this fact would seem clearly to indicate that the business of fishing did not then, and does not now, disqualify vessels from also trading in the regular ports of entry." A reference to the proceedings alluded to will show that the proposition mentioned related only to United States vessels visiting those portions of the coast of Labrador and Newfoundland on which the United States fishermen had been granted the right to fish, and to land for drying and curing fish, and the rejection of the proposal can, at the utmost, be supposed only to indicate that the liberty to carry merchandise might exist without objection in relation to those coasts, and is no ground for supposing that the right extends to the regular ports of entry, against the express words of the treaty.

The proposition of the British negotiators was to append to Article I the following words: "It is, therefore, well understood that the liberty of taking, drying, and curing fish, granted in the preceding part of this article, shall not be construed to extend to any privilege of carrying on trade with any of his Britannic Majesty's subjects residing within the limits hereinbefore assigned for the use of the fishermen of the United States."

It was also proposed to limit them to having on board such goods as might "be necessary for the prosecution of the fishery or the support of the fishermen while engaged therein, or in the prosecution of their voyages to and from the fishing grounds." To this the American negotiators objected, on the ground that the search for contraband goods, and the liability to seizure for having them in possession, would expose the fishermen to endless vexation, and, in consequence, the proposal was abandoned. It is apparent, therefore, that this proviso in no way referred to the bays or harbors outside of the limits assigned to the American fishermen, from which bays and harbors it was agreed, both before and after this proposition was discussed, that United States fishing vessels were to be excluded for all purposes other than for shelter and repairs, and purchasing wood and obtaining water.

It, however, weight is to be given to Mr. Bayard's argument that the rejection of a proposition advanced by either side during the course of the negotiations should be held to necessitate an interpretation adverse to the tenor of such proposition, that

argument may certainly be used to prove that American fishing vessels were not intended to have the right to enter Canadian waters for bait to be used even in the prosecution of the deep-sea fisheries. The United States negotiators in 1818 made the proposition that the words "and bait" be added to the enumeration of the objects for which these fishermen might be allowed to enter, and the proviso as first submitted had read "provided, however, that American fishermen shall be permitted to enter such bays and harbors for the purpose only of obtaining shelter, wood, water, and bait." The addition of the two last words was, however, resisted by the British plenipotentiaries, and their omission acquiesced in by their American colleagues. It is, moreover, to be observed that this proposition could only have had reference to the deep-sea fishing, because the inshore fisheries had already been specifically renounced by the representatives of the United States.

In addition to this evidence, it must be remembered that the United States Government admitted, in the case submitted by them before the Halifax commission in 1877, that neither the convention of 1818 nor the treaty of Washington conferred any right or privilege of trading on American fishermen. The British case claimed compensation for the privilege which had been given since the ratification of the latter treaty to United States fishing vessels "to transfer cargoes, to outfit vessels, by supplies, obtain ice, engage sailors, procure bait, and traffic generally in British ports and harbors."

This claim was, however, successfully resisted, and in the United States case it is maintained "that the various incidental and reciprocal advantages of the treaty, such as the privileges of traffic, purchasing bait and other supplies, are not the subject of compensation, because the treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws or the re-enactment of former oppressive statutes. Moreover, the treaty does not provide for any possible compensation for such privileges."

Now, the existing laws referred to in this extract are the various statutes passed by the imperial and colonial legislatures to give effect to the treaty of 1818, which, it is admitted in the said case, could at any time have been enforced (even during the existence of the Washington treaty), if the Canadian authorities had chosen to do so.

Mr. Bayard on more than one occasion intimates that the interpretation of the treaty and its enforcement are dictated by local and hostile feelings, and that the main question is being "obscured by partisan advocacy and distorted by the heat of local interests," and, in conclusion, expresses a hope that "ordinary commercial intercourse shall not be interrupted by harsh measures and unfriendly administrations."

The undersigned desires emphatically to state that it is not the wish of the Government or the people of Canada to interrupt for a moment the most friendly and free commercial intercourse with the neighboring Republic.

The mercantile vessels and the commerce of the United States have at present exactly the same freedom that they have for years passed enjoyed in Canada, and the disposition of the Canadian Government is to extend reciprocal trade with the United States beyond its present limits, nor can it be admitted that the charge of local prejudice or hostile feeling is justified by the calm enforcement, through the legal tribunals of the country, of the plain terms of a treaty between Great Britain and the United States, and of the statutes which have been in operation for nearly seventy years, excepting in intervals during which (until put an end to by the United States Government) special and more liberal provisions existed in relation to the commerce and fisheries of the two countries.

The undersigned has further to call attention to the letter of Mr. Bayard of the 20th May, relating also to the seizure of the David J. Adams in the port of Digby, Nova Scotia.

That vessel was seized, as has been explained on a previous occasion, by the commander of the Canadian steamer *Lansdowne*, under the following circumstances:

She was a United States fishing vessel, and entered the harbor of Digby for purposes other than those for which entry is permitted by the treaty and by the imperial and Canadian statutes.

As soon as practicable, legal process was obtained from the vice-admiralty court at Halifax, and the vessel was delivered to the officer of that court. The paper referred to in Mr. Bayard's letter as having been nailed to her mast was doubtless a copy of the warrant which commanded the marshal or his deputy to make the arrest.

The undersigned is informed that there was no intention whatever of so adjusting the paper that its contents could not be read, but it is doubtless correct that the officer of the court in charge declined to allow the document to be removed. Both the United States consul-general and the captain of the David J. Adams were made acquainted with the reasons for the seizure, and the only ground for the statement that a respectful application to ascertain the nature of the complaint was fruitless, was that the commander of the *Lansdowne*, after the nature of the complaint had been

stated to those of both countries. The statement referred him to the conduct of the extraordinary. The legal principle at Digby was on the grounds on which it was.

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ated to those concerned and was published, and had become notorious to the people of both countries, declined to give the United States consul-general a specific and precise statement of the charges upon which the vessel would be proceeded against, but referred him to his superior.

Such conduct on the part of the officer of the *Lansdowne* can hardly be said to have been extraordinary under the present circumstances.

The legal proceedings had at that time been commenced in the court of vice-admiralty at Halifax, where the United States consul-general resides, and the officer at Digby could not have stated with precision, as he was called upon to do, the grounds on which the intervention of the court had been claimed in the proceedings therein.

There was not, in this instance, the slightest difficulty in the United States consul-general and those interested in the vessel obtaining the fullest information, and no information which could have been given by those to whom they applied was withheld.

Apart from the general knowledge of the offenses which it was claimed the master had committed, and which was furnished at the time of the seizure, the most technical and precise details were readily obtainable at the registry of the court, and from the solicitors of the crown, and would have been furnished immediately on application to the authority to whom the commander of the *Lansdowne* requested the United States consul-general to apply. No such information could have been obtained from the paper attached to the vessel's mast.

Instructions have, however, been given to the commander of the *Lansdowne* and other officers of the marine police, that, in the event of any further seizure, a statement in writing shall be given to the master of the seized vessel of the offenses for which the vessel may be detained, and that a copy thereof shall be sent to the United States consul-general at Halifax, and to the nearest United States consular agent, and there can be no objection to the solicitor for the crown being instructed likewise to furnish the consul-general with a copy of the legal process in each case, if it can be supposed that any fuller information will thereby be given.

Mr. Bayard is correct in his statement of the reasons for which the *David J. Adams* was seized, and is now held. It is claimed that the vessel violated the treaty of 1818, and consequently the statutes which exist for the enforcement of the treaty, and it is also claimed that she violated the customs laws of Canada of 1853.

The undersigned recommends that copies of those statutes be furnished for the information of Mr. Bayard.

Mr. Bayard has, in the same dispatch, recalled the attention of Her Majesty's minister to the correspondence and action which took place in the year 1870, when the fishery question was under consideration, and especially to the instructions from the lords of the admiralty to Vice-Admiral Wellesley, in which that officer was directed to observe great caution in the arrest of American fishermen, and to confine his action to one class of offenses against the treaty. Mr. Bayard, however, appears to have attached unwarranted importance to the correspondence and instructions of 1870, when he refers to them as implying "an understanding between the two Governments," an understanding, which should, in his opinion, at other times, and under other circumstances, govern the conduct of the authorities, whether imperial or colonial, to whom under the laws of the Empire is committed the duty of enforcing the treaty in question.

When, therefore, Mr. Bayard points out the "absolute and instant necessity that now exists for a restriction of the seizure of American vessels charged with violations of the treaty of 1818" to the conditions specified under those instructions, it is necessary to recall the fact that in the year 1870 the principal cause of complaint on the part of Canadian fishermen was that the American vessels were trespassing on the shore fishing grounds and interfering with the catch of mackerel in Canadian waters, the purchase of bait being then a matter of secondary importance.

It is probable, too, that the action of the imperial Government was influenced very largely by the prospect which then existed of an arrangement such as was accomplished in the following year by the treaty of Washington, and that it may be inferred, in view of this disposition made apparent on both sides to arrive at such an understanding, that the imperial authorities, without any surrender of imperial or colonial rights, and without acquiescing in any limited construction of the treaty, instructed the vice-admiral to confine his seizures to the more open and injurious class of offenses which were especially likely to be brought within the cognizance of the civil officers of the imperial service.

The Canadian Government, as has been already stated, for six months left its fishing grounds open to American fishermen, without any corresponding advantage in return, in order to prevent loss to those fishermen, and to afford time for the action of Congress, on the President's recommendation that a joint commission should be appointed to consider the whole question relating to the fisheries.

That recommendation has been rejected by Congress. Canadian fish is by prohibitory duties excluded from the United States market. The American fishermen clamor against the removal of those duties, and, in order to maintain a monopoly of the trade, continue against all law to force themselves into our waters and harbors, and make our shores their base for supplies, especially for bait, which is necessary to the successful prosecution of their business.

They hope by this course to supply the demand for their home market, and thus to make Canada indirectly the means of injuring her own trade.

It is surely, therefore, not unreasonable that Canada should insist on the rights secured to her by treaty. She is simply acting on the defensive, and no trouble can arise between the two countries if American fishermen will only recognize the provisions of the convention of 1818 as obligatory upon them, and until a new arrangement is made, abstain both from fishing in her waters and from visiting her bays and harbors for any purpose save those specified in the treaty.

In conclusion, the undersigned would express the hope that the discussion which has arisen on this question may lead to renewed negotiations between Great Britain and the United States, and may have the result of establishing extended trade relations between the Republic and Canada, and of removing all sources of irritation between the two countries.

GEORGE E. FOSTER,
Minister of Marine and Fisheries.

[Inclosure 2 in No. 1.]

Report.

With reference to a dispatch from the British minister at Washington, to his excellency the governor-general, dated the 21st May last, and inclosing a letter from Mr. Secretary Bayard, regarding the refusal of the collector of customs at Digby, Nova Scotia, to allow the United States schooner Jennie and Julia the right of exercising commercial privileges at the said port, the undersigned has the honor to make the following observations:

It appears the Jennie and Julia is a vessel of about 14 tons register, that she was to all intents and purposes a fishing-vessel, and, at the time of her entry into the port of Digby, had fishing gear and apparatus on board, and that the collector fully satisfied himself of these facts. According to the master's declaration, she was there to purchase fresh herring only, and wished to get them direct from the weir fishermen. The collector acted upon his conviction that she was a fishing vessel, and, as such, debarred by the treaty of 1818 from entering Canadian ports for the purposes of trade. He, therefore, in the exercise of his plain duty, warned her off.

The treaty of 1818 is explicit in its terms, and by it United States fishing vessels are allowed to enter Canadian ports for shelter, repairs, wood, and water, and "for no other purpose whatever."

The undersigned is of the opinion that it cannot be successfully contended that a bona fide fishing vessel can, by simply declaring her intention of purchasing fresh fish for other than baiting purposes, evade the provisions of the treaty of 1818 and obtain privileges not contemplated thereby. If that were admitted, the provision of the treaty which excludes United States fishing vessels for all purposes but the four above mentioned, would be rendered null and void, and the whole United States fishing fleet be at once lifted out of the category of fishing vessels, and allowed the free use of Canadian ports for baiting, obtaining supplies, and trans-shipping cargoes.

It appears to the undersigned that the question as to whether a vessel is a fishing vessel or a legitimate trader or merchant vessel, is one of fact and to be decided by the character of the vessel and the nature of her outfit, and that the class to which she belongs is not to be determined by the simple declaration of her master that he is not at any given time acting in the character of a fisherman.

At the same time the undersigned begs again to observe that Canada has no desire to interrupt the long-established and legitimate commercial intercourse with the United States, but rather to encourage and maintain it, and that Canadian ports are at present open to the whole merchant navy of the United States on the same liberal conditions as heretofore accorded.

The whole respectfully submitted.

GEORGE E. FOSTER,
Minister of Marine and Fisheries.

OTTAWA, June 5, 1886.

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[Inclosure No. 2, with Mr. Hardinge's note of August 2, 1886.]

The Earl of Rosebery to Sir L. West.

FOREIGN OFFICE, July 23, 1886.

SIR: I have to acknowledge the receipt of your dispatch No. 46 (treaty), of the 30th May last, inclosing a copy of a note from Mr. Bayard, in which he protests against the provisions of a bill recently introduced into the Canadian Parliament for the purpose of regulating fishing operations by foreign vessels in Canadian waters.

In reply I inclose an extract of a dispatch from the governor-general of Canada, containing observations on the subject.

I have to add that Her Majesty's Government entirely concur in the views expressed by the Marquis of Lansdowne in this extract, of which you will communicate a copy to Mr. Bayard, together with a copy of the present dispatch.

With regard to Mr. Bayard's observations in the same note respecting a customs circular and a warning issued by the Canadian authorities, and dated respectively the 7th May and the 5th March last, I have to acquaint you that these documents have now been amended so as to bring them into exact accordance with treaty stipulations; and I inclose, for communication to the United States Government, printed copies of these documents as amended.

I am, &c.

[Inclosure 1 in No. 2.]

The Marquis of Lansdowne to Earl Granville.

[Extract.]

CITADEL, QUEBEC, June 7, 1886.

Her Majesty's minister at Washington has been good enough to communicate to me, for my information, copy of a note received by him from the Secretary of State of the United States, in which the bill is criticised, not so much on account of its policy, or because its introduction is regarded as inopportune and inconvenient, as upon the ground that any legislation by the Parliament of the Dominion for the purpose of interpreting and giving effect to a contract entered into by the imperial Government is beyond the competence of that Parliament, and "an assumption of jurisdiction entirely unwarranted," and therefore "wholly denied by the United States."

Your lordship is no doubt aware that legislation of this kind has been frequently resorted to by the Parliament of the Dominion, for the purpose of enforcing treaties or conventions entered into by the imperial Government. In the present case the legislation proposed was introduced, not with the object of making a change in the terms of the convention of 1818, nor with the intention of representing as breaches of the convention any acts which are not now punishable as breaches of it. What the framers of the bill sought was merely to amend the procedure by which the convention is enforced, and to do this by attaching a particular penalty to a particular breach of the convention after that breach had been proved before a competent tribunal. It must be remembered that the convention itself is silent as to the procedure to be taken in enforcing it, and that effect has accordingly been given to its provisions at different times both through the means of acts passed, on the one side, by Congress, and, on the other, by the imperial Parliament, as well as by the legislatures of the British North American Provinces previous to confederation, and since confederation by the Parliament of the Dominion. The right of the Dominion Parliament to legislate for these purposes, and the validity of such legislation as against the citizens of a foreign country has, as far as I am aware, not been seriously called in question. Such legislation, unless it is disallowed by the imperial Government, becomes part of the law of the Empire.

The Government of the United States has long been aware of the necessity of reference to the Dominion Parliament in matters affecting Canadian interests, and has, I believe, never raised any objection to such reference. The treaties of 1854 and 1871, so far as they related to the fisheries or to the commercial relations of the Dominion, were made subject to ratification by her legislature. In the same way the treaty under which fugitive criminals from the United States into Canada are surrendered, is carried into effect by means of a Canadian statute. If a foreigner commits a murder in Canada he is tried, convicted, and executed by virtue of a Canadian and not of an imperial act of Parliament. Seizures of goods and vessels for breaches of the local customs law have in like manner been made for many years past without any protest on the ground that such laws involved an usurpation of power by the colony.

Mr. Bayard's statement that the Dominion Government is seeking by its action in this matter to "invade and destroy the commercial rights and privileges secured to citizens of the United States under and by virtue of treaty stipulations with Great Britain" is not warranted by the facts of the case. No attempt has been made either by the authorities intrusted with the enforcement of the existing law or by the Parliament of the Dominion to interfere with vessels engaged in *bona fide* commercial transactions upon the coast of the Dominion. The two vessels which have been seized are both of them beyond all question fishing vessels and not traders, and therefore liable, subject to the finding of the courts, to any penalties imposed by law for the enforcement of the convention of 1818 on parties violating the terms of that convention.

When, therefore, Mr. Bayard protests against all such proceedings as being "flagrantly violative of reciprocal commercial privileges to which citizens of the United States are lawfully entitled under statutes of Great Britain and the well-defined and publicly-proclaimed authority of both countries," and when he denies the competence of the fishery department to issue, under the convention of 1818, such a paper as the "warning," dated the 5th March, 1886, of which a copy has been supplied to your lordship, he is in effect denying to the Dominion the right of taking any steps for the protection of its own rights secured under the convention referred to.

[Inclosure 2 in No. 2.]

Warning.

To all to whom it may concern :

The Government of the United States having by notice terminated Articles XVIII to XXV, both inclusive, and Article XXX, known as the fishery articles of the Washington Treaty, attention is called to the following provision of the convention between the United States and Great Britain signed at London on the 20th October, 1818:

"ARTICLE I. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish, on certain coasts, bays, harbors, and creeks of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks from Moncton Joly, on the southern coast of Labrador, to and through the straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement, for such purpose, with the inhabitants, proprietors, or possessors of the ground.

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of his Britannic Majesty's dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is called to the following provisions of the act of Parliament of Canada, cap. 61, of the acts of 1868, entitled "An act respecting fishing by foreign vessels":

"2. Any commissioned officer of Her Majesty's navy, serving on board of any vessel of Her Majesty's navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada, and employed in the service of protecting the fisheries, or any officer of the customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or har-

bor, in Canada.

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SIR: The XVIII to XX Washington between the ber, 1815:

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born in Canada, and stay on board so long as she may remain within such place or distance.

"3. If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination he shall forfeit \$400; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom, or of Canada, and have been found fishing or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the first section of this act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

"4. All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores and cargo liable to forfeiture under this act, may be seized and secured by any officers or persons mentioned in the second section of this act; and every person opposing any officer or person in the execution of his duty under this act, or aiding or abetting any other person in any opposition, shall forfeit \$300, and shall be guilty of a misdemeanor, and upon conviction, be liable to imprisonment for a term not exceeding two years."

Of all of which you will take notice and govern yourself accordingly.

GEORGE E. FOSTER,
Minister of Marine and Fisheries.

DEPARTMENT OF FISHERIES,
Ottawa, March 5, 1886.

[Inclosure 3 in No. 2.]

Customs circular No. 371.

CUSTOMS DEPARTMENT,
Ottawa, May 7, 1886.

SIR: The Government of the United States having by notice terminated Articles XVIII to XXV, both inclusive, and Article XXX, known as the fishery articles of the Washington treaty, attention is called to the following provision of the convention between the United States and Great Britain, signed at London on the 20th October, 1815:

"ARTICLE I. Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground.

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is also called to the following provisions of the act of the Parliament of Canada, cap. 61, of the acts of 1868, entitled "An act respecting fishing by foreign vessels":

"2. Any commissioned officer of Her Majesty's navy, serving on board of any vessel of Her Majesty's navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada, and employed in the service of protecting the fisheries, or any officer of the customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, and stay on board so long as she may remain within such place or distance.

"3. If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit 400 dollars; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the 1st section of this act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

"4. All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo liable to forfeiture under this act, may be seized and secured by any officers or persons mentioned in the 2d section of this act; and every person opposing any officer or person in the execution of his duty under this act, or aiding or abetting any other person in any opposition, shall forfeit 800 dollars, and shall be guilty of a misdemeanor, and, upon conviction, be liable to imprisonment for a term not exceeding two years."

Having reference to the above, you are requested to furnish any foreign vessels, boats, or fishermen found within three marine miles of the shore, within your district, with a printed copy of the warning inclosed herewith.

If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or if hovering within the three-mile limit, does not depart within twenty-four hours after receiving such warning, you will please place an officer on board of such vessel, and at once telegraph the facts to the Fisheries Department at Ottawa, and await instructions.

J. JOHNSON,
Commissioner of Customs.

To the COLLECTOR OF CUSTOMS at ———.

[Inclosure No. 3, with Mr. Hardinge's note of August 2, 1886.]

The Earl of Rosebery to Sir L. West.

FOREIGN OFFICE, July 23, 1886.

SIR: I have received your dispatch No. 55, Treaty, of the 15th ultimo, in which you inclose a copy of a note from Mr. Bayard, protesting against a warning alleged to have been given to United States fishing vessels by a Canadian customs official, with the view to prevent them from fishing within lines drawn from headland to headland from Cape Canso to St. Esprit, and from North Cape to East Point of Prince Edward Island.

In reply, I have to request you to acquaint Mr. Bayard that Her Majesty's Government have ascertained that no instructions to this effect have been issued by the Canadian Government, but that a further report is expected upon the subject.

It appears that the collector at Canso, in conversation with the master of a fishing vessel, expressed the opinion that the headland line ran from Cranberry Island to St. Esprit, but this was wholly unauthorized.

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No. 28.

*Mr. Bayard to Mr. Hardinge.*DEPARTMENT OF STATE,
Washington, August 9, 1886.

SIR: I regret that it has become my duty to draw the attention of Her Majesty's Government to the unwarrantable and unfriendly treatment, reported to me this day by the United States consul-general at Halifax, experienced by the American fishing schooner *Rattler*, of Gloucester, Mass., on the 3d instant, upon the occasion of her being driven by stress of weather to find shelter in the harbor of Shelburne, Nova Scotia.

She was deeply laden and was off the harbor of Shelburne when she sought shelter in a storm and cast anchor just inside the harbor's entrance.

She was at once boarded by an officer of the Canadian cutter *Terror*, who placed two men on board.

When the storm ceased the *Rattler* weighed anchor to proceed on her way home, when the two men placed on board by the *Terror* discharged their pistols as a signal, and an officer from the *Terror* again boarded the *Rattler* and threatened to seize the vessel unless the captain reported at the custom-house.

The vessel was then detained until the captain reported at the custom-house, after which she was permitted to sail.

The hospitality which all civilized nations prescribe has thus been violated and the stipulations of a treaty grossly infringed.

A fishing vessel, denied all the usual commercial privileges in a port, has been compelled strictly to perform commercial obligations.

In the interests of amity, I ask that this misconduct may be properly rebuked by the Government of Her Majesty.

I have, &c.,

T. F. BAYARD.

No. 29.

Mr. Hardinge to Mr. Bayard.

WASHINGTON, August 10, 1886. [Received August 11.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday, drawing the attention of Her Majesty's Government to the alleged unwarrantable and unfriendly treatment experienced by the American fishing schooner *Rattler*, on the 3d instant, upon the occasion of her being driven by stress of weather to find shelter in the harbor of Shelburne, Nova Scotia.

I have, &c.,

CHARLES HARDINGE.

No. 30.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,
Washington, August 17, 1886.

SIR: An affidavit has been filed in this Department by Reuben Cameron, master of the American schooner *Golden Hind*, of Gloucester, Mass., setting forth that, on or about the 23d of July ultimo, being out of water, he attempted to put into Port Daniel, Bay of Chaleurs, to obtain a fresh supply; that at the entrance of the bay, about four or five miles from land, the *Golden Hind* was boarded by an officer from the Canadian schooner *E. F. Conrad*, and by him ordered not to enter the Bay of Chaleurs; that said officer furnished Captain Cameron with a printed warning with this indorsement written thereon: "Don't enter the Bay of Chaleurs, M. S.;" and that in consequence of said act of the Canadian officer the *Golden Hind* was obliged to go across to Tignish, Prince Edward Island, to obtain water, whereby his fishing venture was interfered with, and loss and injury caused to the vessel and her owners.

I have the honor to protest against this act of officers of Her Britannic Majesty as not only distinctly unfriendly and contrary to the humane usages of civilized nations, but as in direct violation of so much of Article I of the convention of 1818 between the United States and Great Britain as secures forever to American fishermen upon the British North American coast admission to the bays or harbors thereof for the purpose of obtaining water. And for all loss or injury which may be shown to have accrued by reason of the act in question the Government of Her Britannic Majesty will be held justly liable.

I have further the honor to ask with all earnestness that the Government of Her Britannic Majesty will cause steps to be forthwith taken to prevent and rebuke acts so violative of treaty and of the common rites of hospitality.

I have, &c.,

T. F. BAYARD.

No. 31.

Sir L. West to Mr. Bayard.

WASHINGTON, August 18, 1886. [Received August 19.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday, protesting against the action of the officer of the Dominion schooner *E. F. Conrad*, in forbidding the master of the American schooner *Golden Hind* to enter the Bay of Chaleur for the purpose of renewing his supply of fresh water at that place.

I have, &c.,

L. S. SACKVILLE WEST.

No. 32.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,
Washington, August 18, 1886.

SIR: Grave cause of complaint is alleged by the masters of several American fishing vessels, among which can be named the schooners Shiloh and Julia Ellen, against the hostile and outrageous misbehavior of Captain Quigley, of the Canadian cruiser Terror, who, upon the entrance of these vessels into the harbor of Liverpool, Nova Scotia, fired a gun across their bows to hasten their coming to, and placed a guard of two armed men on board each vessel, who remained on board until the vessels left the harbor.

In my note to your legation of the 9th instant I made earnest remonstrance against another unfriendly act of Captain Quigley, against the schooner Rattler, of Gloucester, Mass., which, being fully laden and on her homeward voyage, sought shelter from stress of weather in Shelburne Harbor, Nova Scotia, and was then compelled to report at the custom-house, and have a guard of armed men kept on board.

Such conduct cannot be defended on any just ground, and I draw your attention to it in order that Her Britannic Majesty's Government may reprimand Captain Quigley for his unwarranted and rude act.

It was simply impossible for this officer to suppose that any invasion of the fishing privileges of Canada was intended by these vessels under the circumstances.

The firing of a gun across their bows was a most unusual and wholly uncalled for exhibition of hostility, and equally so was the placing of armed men on board the peaceful and lawful craft of a friendly nation.

I have, &c.,

T. F. BAYARD.

No. 33.

Sir L. West to Mr. Bayard.

WASHINGTON, August 18, 1886. [Received August 19.]

SIR: With reference to your note of the 2d ultimo reporting to me the detention of the American schooner City Point, of Portland, Me., by the Canadian authorities at the port of Shelburne, Nova Scotia, and protesting against their action in so doing, I have the honor to inform you, in accordance with instructions which I have received from Her Majesty's Government, that the master of the schooner City Point committed a breach of the customs laws of the Dominion by not reporting to customs and landing part of the crew and luggage. The vessel in question was subsequently released on deposit of \$400.

I have, &c.,

L. S. SACKVILLE WEST.

No. 34

Sir L. West to M. Bayard.

WASHINGTON, August 19, 1886. [Received August 20.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday informing me of the causes of complaint alleged by the masters of several American fishing vessels against Captain Quigley, of the Canadian cruiser Terror.

I have, &c.,

L. S. SACKVILLE WEST.

No. 35.

Sir L. West to Mr. Bayard.

BRITISH LEGATION,

September 1, 1886. [Received September 2.]

SIR: With reference to your note of the 30th of July last, calling attention to the cases of the Thomas F. Bayard and the Mascot, I have the honor to inform you, in pursuance of instructions from Her Majesty's secretary of state for foreign affairs, that immediate inquiry will be made into the matter with the view that the right secured by the convention of 1818 to United States fishermen shall in no wise be prejudiced.

I have, &c.,

L. S. SACKVILLE WEST.

No. 36.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,

Washington, September 10, 1886.

SIR: It is my duty to ask you to bring to the attention of Her Britannic Majesty's Government the treatment lately experienced by an American fishing vessel, the Mollie Adams, of Gloucester, Mass., at the hands of the collector of customs at Port Mulgrave, in the Strait of Canso, Nova Scotia.

By the sworn statement of Solomon Jacobs, master of the schooner Mollie Adams, it appears that on the 31st ultimo, whilst on his homeward voyage laden with fish from the fishing banks, he was compelled to put into Port Mulgrave to obtain water, and duly made report and entry at the custom house. The water-tank of the vessel having been burst in his voyage by heavy weather and thus rendered useless, he asked permission of the collector to purchase two or three barrels to hold a supply of water for his crew on their homeward voyage of about 500 miles.

This application was refused and his vessel threatened with seizure if barrels were so purchased. In consequence the vessel was compelled

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to put to sea with an insufficient supply of water, and in trying to make some other port wherein to obtain water a severe gale was encountered which swept away his deck-load of fish and destroyed two seine boats.

This inhospitable, indeed inhuman, conduct on the part of the customs officer in question should be severely reprimanded, and for the infraction of treaty rights and commercial privileges compensation equivalent to the injuries sustained will be claimed from Her Majesty's Government.

I have, &c.,

T. F. BAYARD.

No. 37.

Sir L. West to Mr. Bayard.

WASHINGTON, September 11, 1886. [Received September 14.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date calling attention to the case of the Mollie Adams.

I have, &c.,

L. S. SACKVILLE WEST.

No. 38.

Sir L. West to Mr. Bayard.

BRITISH LEGATION,

Washington, September 17, 1886. [Received September 18.]

SIR: With reference to your note of the 30th of July last, calling attention to alleged infractions of the convention of 1818 by the authorities at Bonne Bay, Newfoundland, and at Port Amherst, Magdalen Islands, I have now received instructions from Her Majesty's secretary of state for foreign affairs to inform you of the steps which have been taken in the matter in consequence of the protest of the United States Government.

On the arrival of your note in London, Her Majesty's secretary of state for the colonies telegraphed to the officers administering the Governments of Canada and Newfoundland calling attention to the cases, and explaining that under the treaty of 1818 United States fishermen have the right to fish off the coasts of the Magdalen Islands and off certain coasts of Newfoundland, and stating that it was presumed that the customs officials in those places had not been instructed in the same way as on other parts of the coast.

On the 25th ultimo the Governments of Canada and Newfoundland were further instructed by dispatches from the colonial office to make full reports on the subject of the complaints in question, and it was recommended that special instructions should be issued to the authorities at those places where the inshore fishery has been granted by the convention of 1818 to the United States fishermen, calling their attention to the provisions of that convention, and warning them that no

action contrary thereto may be taken in regard to United States fishing vessels.

I may add that information has been received that the warning notices referred to by you were discontinued in the beginning of Aug. st.

I have, &c.,

L. S. SACKVILLE WEST.

No. 39.

Sir L. West to Mr. Bayard.

WASHINGTON, September 18, 1886. [Received September 20.]

SIR: I have the honor to inform you that I am requested by the Earl of Idedesleigh to state to you that immediate inquiry will be made regarding the action of the officer of the Canadian schooner E. F. Conrad, in the case of the United States schooner Golden Hind, which formed the subject of your note of the 17th ultimo.

I have, &c.,

L. S. SACKVILLE WEST.

No. 40.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, September 23, 1886.

SIR: I have the honor to bring to your attention an instance which has been brought to my knowledge of an alleged denial of one of the rights guaranteed by the convention of 1818, in the case of an American vessel.

Capt. Joseph E. Graham, of the fishing schooner A. R. Crittenden, of Gloucester, Mass., states under oath that on or about the 21st of July last, on a return trip from the open-sea fishing grounds to his home port, and while passing through the Strait of Canso, he stopped at Steep Creek for water. The customs officer at that place told him that if he took in water his vessel would be seized; whereupon he sailed without obtaining the needed supply, and was obliged to put his men on shore at allowance of water during the passage homeward.

I have the honor to ask that Her Britannic Majesty's Government cause investigation to be made of the reported action of the customs officer at Steep Creek, and if the facts be as stated, that he be promptly rebuked for his unlawful and inhumane conduct in denying to a vessel of a friendly nation a general privilege, which is not only held sacred under the maritime law of nations, but which is expressly confirmed to the fishermen of the United States throughout the Atlantic coasts of British North America by the first article of the convention of 1818.

It does not appear that the A. R. Crittenden suffered other damage by this alleged inhospitable treatment, but reserving that point the incident affords an illustration of the vexatious spirit in which the officers of the Dominion of Canada appear to seek to penalize and oppress those fishing vessels of the United States, lawfully engaged in fishing, which from any cause are brought within their reach.

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T. F. BAYARD.

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No. 41.

Sir L. West to Mr. Bayard.

BRITISH LEGATION,
 Washington, September 25, 1886. [Received September 27.]

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant requesting that investigation should be made of the reported action of the customs officer at Steep Creek, in the Straits of Canso, in threatening the United States fishing schooner Crittenden with seizure if she took in water, and to inform you that I have advised Her Majesty's Government accordingly.

I have, &c.,

L. S. SACKVILLE WEST.

No. 42.

Sir L. West to Mr. Bayard.

WASHINGTON, October 12, '886. [Received October 13.]

SIR: With reference to your note of the 14th June relative to certain warnings alleged to have been given to United States fishing vessels by the subcollector of customs at Canso, I have the honor to inclose to you herewith by instruction from the Earl of Iddesleigh an extract from an approved report of the Canadian privy council dealing with this question.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure.]

Extract from a certified copy of a report of a committee of the honorable the privy council approved by his excellency the administrator of the Government in council on the 16th August, 1886.

The committee of the privy council have had under consideration a dispatch dated 15 July, 1886, from the secretary of state for the colonies in which he asks for a report from the Canadian Government on the subject of an inclosed note from Mr. Secretary Bayard to the British minister at Washington relating to certain warnings alleged to have been given to United States fishing vessels by the subcollector of customs at Canso.

Mr. Bayard states:

First. That the masters of the four American fishing vessels of Gloucester, Mass., Martha C. Bradley, Rattler, Eliza Boynton, and Pioneer, have severally reported to the consul-general at Halifax, that the subcollector of customs at Canso had warned them to keep outside an imaginary line drawn from a point three miles outside Canso head to a point three miles outside St. Esprit on the Cape Breton coast.

Second. That the same masters also report that they were warned against going inside an imaginary line drawn from a point three miles outside North Cape, in Prince Edward Island, to a point three miles outside East Point on the same island.

Third. That the same authority informed the masters of the vessels referred to that they would not be permitted to enter Bay Chaleur.

The minister of marine and fisheries, to whom the dispatch and inclosures were referred, observes that the instructions issued to collectors of customs authorized them in certain cases to furnish United States fishing vessels with a copy of the circular hereto attached, and which constitutes the only official "warning" collectors of cus-

BAYARD.

toms are empowered to give. It was to be presumed that the subcollector of customs at Canso, as all other collectors, would carefully follow out the instructions received, and that therefore no case such as that alleged by Mr. Secretary Bayard would be likely to arise.

The minister states, however, so soon as the dispatch above referred to was received he sent to the subcollector at Canso a copy of the allegations, and requested an immediate reply thereto.

The subcollector, in answer, emphatically denies that he has ordered any American vessel out of any harbor in his district or elsewhere, or that he did anything in the way of warning, except to deliver copies of the official circular above alluded to, and states that he boarded no United States vessel other than the *Annie Jordan* and the *Hereward*, and that neither the *Martha C. Bradley*, *Rattler*, or *Pioneer*, of Gloucester, have, during this season, reported at his port of entry. He, with equal clearness, denies that he has warned any United States fishing vessels to keep outside the line drawn from Cape North to East Point, alluded to by Mr. Secretary Bayard, or that they would not be permitted to enter Bay des Chaleurs.

The minister has every reason to believe the statements made by the subcollector at Canso, and, taking into consideration all the circumstances of the case, is of the opinion that the information which has reached the Secretary of State does not rest upon a trustworthy basis.

With reference to the concluding portion of Mr. Bayard's note, the minister observes that the occasion of the present dispatch, which has to deal mainly with questions of fact, does not render it necessary for him to enter upon any lengthened discussion of the question of headland limits.

No. 43.

Sir L. West to Mr. Bayard.

WASHINGTON, October 12, 1886. [Received October 13.]

SIR: With reference to your notes of the 10th of July last protesting against the action of Canadian authorities with regard to the United States vessel *Novetty*, and the action of the Canadian cruiser *Middleton*, in preventing United States boats from visiting St. Andrews, New Brunswick, for the purpose of there purchasing herring for canning, I have the honor to inclose to you herewith by instruction from the Earl of Iddesleigh a copy of a certified report of the Canadian privy council dealing with both questions.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure No. 1.]

Certified copy of a report of a committee of the honorable, the privy council for Canada, approved by his excellency the administrator of the Government on the 20th August, 1886.

The committee of the privy council have had under consideration the dispatch dated 29th July last, from Her Majesty's secretary of state for the colonies, enclosing two notes from Mr. Secretary Bayard to the British minister at Washington, asking that Her Majesty's Government be furnished with a report upon the cases therein referred to.

The committee respectfully submit the annexed report from the minister of marine and fisheries, to whom the said dispatch and its inclosures were submitted, and they advise that your excellency be moved to transmit a copy thereof, if approved, to Her Majesty's principal secretary of state for the colonies.

JOHN J. MCGEE,
Clerk, Privy Council for Canada.

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[Inclosure No. 2.]

DEPARTMENT OF FISHERIES,
Ottawa, August 14, 1886.

The undersigned has the honor to submit the following in answer to a dispatch from Lord Granville to the governor-general under date 29th July last in closing two notes from Mr. Secretary Bayard to the British minister at Washington, and asking that Her Majesty's Government be furnished with a report upon the cases therein referred to.

In his first communication, dated July 10, Mr. Bayard says:

"I have the honor to inform you that I am in receipt of a report from the consul-general of the United States at Halifax, accompanied by sworn testimony stating that the *Novelty*, a duly-registered merchant steam vessel of the United States, has been denied the right to take in steam coal, or purchase ice, or trans-ship fish in bond to the United States, at Pictou, Nova Scotia.

"It appears that having reached that port on the 1st instant, and finding the customs office closed on account of a holiday, the master of the *Novelty* telegraphed to the minister of marine and fisheries at Ottawa, asking if he would be permitted to do any of the three things mentioned above. That he received in reply a telegram reciting, with certain inaccurate and extended application, the language of Article I of the treaty of 1818, the limitations upon the significance of which are impending discussion between the Government of the United States and that of Her Britannic Majesty. That on entering and clearing the *Novelty* on the following day at the customs-house, the collector stated that his instructions were contained in the telegram the master had received, and that the privilege of coaling being denied, the *Novelty* was compelled to leave Pictou without being allowed to obtain fuel necessary for her painful voyage on a dangerous coast.

"Against this treatment I make instant and formal protest as an unwarranted interpretation and application of the treaty by the officers of the Dominion of Canada and the Province of Nova Scotia, as an infraction of the laws of commercial and maritime intercourse existing between the two countries, and as a violation of hospitality, and for any loss or injury resulting therefrom the Government of Her Britannic Majesty would be held liable."

With reference to this the undersigned begs to observe that Mr. Bayard's statement appears to need modification in several important particulars.

In the first place, the *Novelty* was not a vessel regularly trading between certain ports in the United States and Canada, but was a fishing vessel whose purpose was to carry on the mackerel-seining business in the waters of the Gulf of St. Lawrence, around the coasts of Prince Edward Island and Nova Scotia; that she had on board a full equipment of seines and fishing apparatus and men; that she was a steam vessel and needed coal, not for the purposes of cooking or warming, but to produce motive power for the vessel, and that she wished to pursue her business of fishing in the above-named waters and to send her fares home over Canadian territory, to the end that she might the more uninterruptedly and profitably carry on her business of fishing. That she was a fishing vessel and not a merchant vessel was proved not only by the facts above mentioned, but also from a telegram over the signature of H. B. Joyce, the captain of the vessel, a copy of which is appended. In his telegram Captain Joyce indicates the character of his vessel by using the words "American fishing steamer," and he signs himself "H. B. Joyce, master fishing steamer *Novelty*."

There seems no doubt, therefore, that the *Novelty* was in character and in purpose a fishing vessel, and as such comes under the provisions of the treaty of 1818, which allows United States fishing vessels to enter Canadian ports "for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and for no other purpose whatever."

The object of the captain was to obtain supplies for the prosecution of his fishing and to trans-ship his cargoes of fish at a Canadian port, both of which are contrary to the letter and spirit of the convention of 1818.

To Mr. Bayard's statement that, in reply to Captain Joyce's inquiry of the minister of marine and fisheries, "he received in reply a telegram reciting, with certain inaccurate and extended application, the language of Article I of the treaty of 1818," the undersigned considers it a sufficient answer to adduce the telegrams themselves.

1.—Inquiry by the captain of the *Novelty*.

Hon. GEORGE E. FOSTER,

"Minister of Marine and Fisheries, Ottawa:

"Will the American fishing steamer now at Pictou be permitted to purchase coal or to trans-ship fresh fish in bond to United States markets?"

"Please answer.

"PICTOU, N. S., July 1, 1886.

"H. B. JOYCE,
"Master of Fishing Steamer *Novelty*."

2.—Reply of the Minister of Marine and Fisheries thereto.

"OTTAWA, July 1, 1886.

"To H. B. JOYCE,

"Master American Fishing Steamer Novelty, Pictou, N. S.:

"By terms of treaty, 1818, United States fishing vessels are permitted to enter Canadian ports for shelter, repairs, wood, and water, and for no other purpose whatever. That treaty is now in force.

"GEORGE E. FOSTER,
"Minister of Marine and Fisheries."

The undersigned fails to observe wherein any "inaccurate or extended application" of the language of the treaty can be found in the above answer, inasmuch as it consists of a *de facto* citation from the treaty itself, with the added statement, for the information of the captain, that said treaty was at that time in force.

As to the "unwarranted interpretation and application of the treaty," of which Mr. Bayard speaks, the undersigned has already discussed that phase of the question in his memorandum of June 14, which was adopted by council and has been forwarded to Her Majesty's Government.

Mr. Bayard's second note is as follows:

"On the 2nd of June last I had the honor to inform you that dispatches from Eastport, in Maine, had been received reporting threats by the customs officials of the Dominion to seize American boats coming into those waters to purchase herring from the Canadian weirs for the purpose of canning the same as sardines, which would be a manifest infraction of the right of purchase and sale of herring caught and sold by Canadians in their own waters in the pursuance of legitimate trade.

"To this note I have not had the honor of a reply.

"To-day Mr. C. A. Bontelle, M. C., from Maine, informs me that American boats visiting St. Andrews, N. B., for the purpose of there purchasing herring from the Canadian weirs for canning had been driven away by the Dominion cruiser Middleton.

"Such inhibition of usual and legitimate commercial contracts and intercourse is assuredly without warrant of law, and I draw your attention to it in order that the commercial rights of the citizens of the United States may not be thus invaded and subjected to unfriendly discrimination."

With reference to the above, the undersigned observes that so far as his information goes no collector of customs or captains of cruisers have threatened to "seize American boats coming into Canadian waters to purchase herring from Canadian weirs for the purpose of canning them as sardines."

Collectors of customs have, however, in pursuance of their duties under the customs law of Canada, compelled American vessels coming to purchase herring to enter and clear in conformity to customs law.

With reference to the action of the Dominion cruiser Middleton, the undersigned cannot do better than quote from the official report of the captain of that vessel as to the facts of the case referred to.

In his report of date 9th July, 1886, Captain McLean, of the General Middleton, says:

"At 9 a. m. made sail and drifted with the tide towards the bay. Seeing a large number of boats of various sizes hovering around the fishing weirs, I ordered the boat in waiting and sent Officer Kent in charge, giving him instructions to row down among the boats and see if there were any Americans purchasing fish. On the return of the boat Chief Officer Kent reported the boats mentioned were Americans, there for the purpose of getting herring. I immediately directed the chief officer to return and order the American boats to at once report themselves to the collector of the port and get permits to load fish or leave without further delay. One of the boatmen complied with the request, and obtained a permit to load fish for Eastport. The others were very much disturbed on receiving the above instructions, and sailed away toward the American side of the river and commenced blowing their fog-horns, showing their contempt. Other boats, at a greater distance, seeing our boat approaching, did not wait her arrival, but up sail and left for the American shore."

The above extract from the report of the chief officer of the General Middleton, goes to show that it was not his object to prevent American boats from trading in sardines, but rather to prevent them from trading without having first conformed to the customs law of Canada.

The whole respectfully submitted.

GEORGE E. FOSTER,
Minister of Marine and Fisheries.

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No. 44.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,
Washington, October 19, 1886.

SIR: The Everett Steele, a fishing vessel of Gloucester, Mass., in the United States, of which Charles E. Forbes, an American citizen, was master, was about to enter, on the 10th of September, 1886, the harbor of Shelburne, Nova Scotia, to procure water and for shelter during repairs. She was hailed, when entering the harbor, by the Canadian cutter Terror, by whose captain, Quigley, her papers were taken and retained. Captain Forbes, on arriving off the town, anchored and went with Captain Quigley to the custom-house, who asked him whether he reported whenever he had come in. Captain Forbes answered that he had reported always, with the exception of a visit on the 25th of March, when he was driven into the lower harbor for shelter by a storm and where he remained only eight hours. The collector did not consider that this made the vessel liable, but Captain Quigley refused to discharge her; said he would keep her until he heard from Ottawa, put her in charge of policemen, and detained her until the next day, when at noon she was discharged by the collector; but a calm having come on she could not get to sea, and by the delay her bait was spoiled and the expected profits of her trip lost.

It is scarcely necessary for me to remind you, in presenting this case to the consideration of your government, that when the northeastern coast of America was wrested from France in a large measure by the valor and enterprise of New England fishermen, they enjoyed, in common with other British subjects, the control of the fisheries with which that coast was enriched, and that by the treaty of peace of 1783, which, as was said by an eminent English judge when treating an analogous question, was a treaty of "separation," this right was expressly affirmed.

It is true that by the treaty of 1818, the United States renounced a portion of its rights in these fisheries, retaining, however, the old prerogatives of visiting the bays and harbors of the British northeastern possessions for the purpose of obtaining wood, water, and shelter, and for objects incidental to those other rights of territoriality so retained and confirmed. What is the nature of these incidental prerogatives, it is not, in considering this case, necessary to discuss. It is enough to say that Captain Forbes entered the harbor of Shelburne to obtain shelter and water, and that he had as much right to be there under the treaty of 1818, confirming in this respect the ancient privileges of American fishermen on those coasts, as he would have had on the high seas, carrying on, under shelter of the flag of the United States, legitimate commerce. The Government which you so honorably represent has, with its usual candor and magnanimity, conceded that when a merchant vessel of the United States is stopped in time of peace by a British cruiser on the groundless suspicion of being a slave trader, damages are to be paid to this Government not merely to redress the injury suffered, but as an apology for the insult offered to the flag of the United States. But the case now presented to you is a much stronger one than that of a seizure on the high seas of a ship unjustly suspected of being a slaver. When a vessel is seized on the high seas on such a suspicion, the seizure is not on waters where its rights, based on prior and con-

tinuous ownership, are guaranteed by the sovereign making the seizure. If in such case the property of the owners is injured, it is, however wrongful the act, a case of rare occurrence, on seas comparatively unfrequented, with consequences not very far reaching; and if a blow is struck at a system of which such vessel is unjustly supposed to be a part, such system is one which the civilized world execrates. But seizures of the character of that which I now present to you have no such features. They are made in waters not only conquered and owned by American fishermen, but for the very purpose for which they were being used by Captain Forbes, guaranteed to them by two successive treaties between the United States and Great Britain.

These fishermen also, I may be permitted to remind you, were engaged in no nefarious trade. They pursue one of the most useful and meritorious of industries. They gather from the seas, without detriment to others, a food which is nutritious and cheap, for the use of an immense population. They belong to a stock of men which contributed before the Revolution most essentially to British victories on the North-eastern Atlantic, and it may not be out of place to say they have shown since that Revolution, when serving in the Navy of the United States, that they have lost none of their ancient valor, hardihood, and devotion to their flag.

The indemnity which the United States has claimed, and which Great Britain has conceded, for the visitation and search of isolated merchantmen seized on remote African seas on unfounded suspicion of being slavers, it cannot do otherwise now than claim, with a gravity which the importance of the issue demands, for its fishermen seized on waters in which they have as much right to traverse for shelter as have the vessels by which they are molested. This shelter, it is important to observe, they will as a class be debarred from if annoyances such as I now submit to you are permitted to be inflicted on them by minor officials of the British Provinces.

Fishermen, as you are aware, have been considered, from the usefulness of their occupation, from their simplicity, from the perils to which they are exposed, and from the small quantity of provisions and protective implements they are able to carry with them, the wards of civilized nations; and it is one of the peculiar glories of Great Britain that she has taken the position—a position now generally accepted—that even in time of war they are not to be the subjects of capture by hostile cruisers. Yet, in defiance of this immunity thus generously awarded by humanity and the laws of nations, the very shelter which they own in these seas, and which is ratified to them by two successive treaties, is to be denied to them, not, I am confident, by the act of the wise, humane, and magnanimous Government you represent, but by deputies of deputies permitted to pursue, not uninfluenced by local rivalry, these methods of annoyance in fishing waters which our fishermen have as much right to visit on lawful errands as those officials have themselves. For let it be remembered that by annoyances and expulsions such as these the door of shelter is shut to American fishermen as a class.

If a single refusal of that shelter, such as the present, is sustained, it is a refusal of shelter to all fishermen pursuing their tasks on those inhospitable coasts. Fishermen have not funds enough nor outfit enough, nor, I may add, recklessness enough to put into harbors where, perfect as is their title, they meet with such treatment as that suffered by Captain Forbes.

To sanction such treatment, therefore, is to sanction the refusal to the United States fishermen as a body of that shelter to which they are

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entitled by ancient right, by the law of nations, and by solemn treaty. Nor is this all. That treaty is a part of a system of mutual concessions. As was stated by a most eminent English judge in the case of *Sutton v. Sutton* (1 Myl. & R., 675), which I have already noticed, it was the principle of the treaty of peace, and of the treaties which followed between Great Britain and the United States, that the "subjects of the two parts of the divided Empire should, notwithstanding the separation, be protected in the mutual enjoyment" of the rights those treaties affirmed. If, as I cannot permit myself to believe, Great Britain should refuse to citizens of the United States the enjoyment of the plainest and most undeniable of these rights, the consequences would be so serious that they cannot be contemplated by this Government but with the gravest concern.

I have, &c.,

T. F. BAYARD.

No. 45.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, October 20, 1886.

SIR: Permit me to ask you to draw the attention of your Government to the case set forth in the inclosed affidavit of Murdock Kemp, master of the American fishing vessel *Pearl Nelson*, of Provincetown, Mass., which has been subjected to treatment, by the customs officials at Arichat, Nova Scotia, inconsistent with the international law of ordinary amity and hospitality, and also plainly violative of treaty rights under the convention of 1818 between Great Britain and the United States.

The vessel in question was compelled by stress of weather to seek shelter in the harbor of Arichat, Nova Scotia, and arrived late at night, when the custom-house was closed.

Before the custom-house was opened the next day the captain went there, and after waiting over an hour the collector arrived, and the usual inward report was made and permission asked to land the clothing of a sailor lost overboard, whose family resided in that vicinity.

He was then informed that his vessel was seized for allowing his crew to go ashore the night before *before reporting at the custom-house*.

The cruel irony of this was apparent when the collector knew such report was impossible, and that the landing of the crew was usual and customary, and that no charge of smuggling had been suggested or was possible under the circumstances.

To compel the payment of a fine, or "a deposit" of \$200, which is practically the same in its results, was harsh and unwarranted, and was adding a price and a penalty to the privilege of *shelter* guaranteed to American fishermen by treaty.

This vessel was a fishing vessel, and, although seeking to exercise no commercial privileges, was compelled to pay commercial fees, such as are applicable to trading vessels, but at the same time was not allowed commercial privileges.

I beg you will lose no time in representing the wrong inflicted upon an unoffending citizen of the United States, and procure the adoption of such orders as will restore the money so compelled to be deposited.

I am, sir, &c.,

T. F. BAYARD.

[Inclosure.]

*Schooner Pearl Nelson.*UNITED STATES OF AMERICA,
District of Massachusetts :

I, Murdock Kemp, of Provincetown, in Massachusetts, a citizen of the United States, on my oath do say that I was master and part owner of the schooner Pearl Nelson, a vessel of the United States duly licensed —, 1886, for the fisheries, and holding a permit to touch and trade during the existence of said license.

I further say that the crew of said vessel were shipped on wages at Provincetown and Boston for a fishing voyage to the Grand Banks and return to Provincetown for discharge. Said schooner, with license and permit as aforesaid, sailed May 29, 1886, from Provincetown, and on her passage home touched at Arichat, Cape Breton, driven in there by stress of weather. Sailed by the wind from Bank Quero, and blowing fresh, a heavy sea running, and foggy, made Point Michaux, 9 miles from Arichat. The vessel was deep; her dorys floated on deck in her lee waist, wind being about west. I concluded to make a harbor and wait for better weather and wind. I anchored the vessel in Arichat Harbor at 11 p. m., September 7, 1886. I had lost a man on the Grand Banks, named James Sampson, who belonged to Arichat, and I wanted to land his effects if the customs officers would allow me to. Some of my crew belonged in that neighborhood. William Babins, my cook, and nine others of the crew took boats off the deck and went ashore without asking my permission. I saw them, but had never known there was any objection. I had been in this and other British North American ports frequently and witnessed the landing from my own and other vessels' crews, but never before heard such landing was illegal or improper. These men took nothing from the vessel with them, nor carried away anything but the clothes they wore.

From the time I left Provincetown I had been into no port anywhere. Next morning after my arrival in Arichat, at 8½ o'clock, I went ashore to enter at the custom-house, and found it closed. I called at 9 o'clock and it was not open. I went again at 10 o'clock and found the collector opening the office door. I made the regular inward report to him and requested permission to land the clothes of James Sampson, who had been lost from my vessel on the Grand Banks. He told me he had sent a man for me. After I got there this man came in. The officer was holding my papers and told the man to go back and take charge of the vessel. I asked him why he held my papers; he replied he seized her because I had allowed my men to go ashore before reporting at the custom-house; that all he would tell me was he said he would telegraph to Ottawa and find out what to do with me; and he did telegraph immediately. About 5 o'clock p. m. the collector received an answer, and told me to deposit \$200 and the vessel would be released. The collector would not allow me to land this dead man's clothes until after I had paid the \$200 fine. I gave the clothes to the shopkeeper to give to Sampson's widow or friends. I came out of Arichat about 11 a. m. on the 8th of September, 1886, having bought there one bushel of potatoes with the collector's permission, and arrived at Provincetown September 14, 1886. I sailed from Arichat with all my crew on board, and had not at any time intended to leave any of my crew at that port. They were hired men, shipped to be discharged on return at Provincetown, and on our arrival there were all paid off and discharged.

Some of the crew that went ashore at Arichat returned aboard as early as 7 o'clock and all were aboard about the time the vessel was seized. I gave them no money there and had none myself. I further say I did not enter Arichat with any intention of violating any law of the Dominion of Canada, nor for any business, but solely because of the stress of weather that had driven me there. It was mere kindness only that prompted me to offer to land Sampson's clothes there where his friends could get them. There was no profit to the vessel, crew, or myself expected in so doing, or attempted to be gained in entering the port of Arichat other than shelter from the stress of weather we had been under from Quero Bank. If any revenue law of Canada was violated by my vessel or by myself, the same was done through ignorance and inadvertence and not with any intention to defraud the revenue or offend the laws.

MURDOCK KEMP.

Personally appeared before me Murdock Kemp, at Provincetown, State of Massachusetts, U. S. A., this 27th day of September, 1886, who subscribed and made oath to the foregoing.

[SEAL.]

JAMES GIFFORD.
Notary Public.

SIR: I have the 19th and 20th of Majesty's Government in the cases of Pearl Nelson, and communicating copies I have, &

SIR: I inclose George Steele, Mass.

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No. 46.

Sir L. West to Mr. Bayard.

WASHINGTON, October 21, 1886. [Received October 22.]

SIR: I have the honor to acknowledge the receipt of your notes of the 19th and 20th instant, requesting me to draw the attention of Her Majesty's Government to the proceedings of the Canadian authorities in the cases of the United States fishing vessels Everett Steele and Pearl Nelson, and to inform you that I have lost no time in communicating copies of those documents to the Earl of Iddesleigh.

I have, &c.,

L. S. SACKVILLE WEST.

No. 47.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,
Washington, October 27, 1886.

SIR: I inclose copies of two letters received at this Department from George Steele, president of the American Fishery Union at Gloucester, Mass.

The object of these letters is to obtain authentic information of the administration of Canadian laws regulating the sale and exportation of fresh herring from Grand Manan Island and its vicinity, a trade which, the writer avers, has been carried on almost exclusively in American vessels for many years.

By the statements of the letter of Mr. Steele dated October 25, it appears that although the vessels employed in this trade are duly registered in their home port as fishing vessels, yet that so far as the proposed trade is concerned, they are not manned nor equipped, nor in any way prepared for taking fish, but their use is confined to the carriage of fish as merchandise to ports in the United States, a commercial transaction *pur et simple*.

May I ask the favor of an early response to the inquiries propounded by Mr. Steele?

I have, &c.,

T. F. BAYARD.

[Inclosures.]

Copy of letter from George Steele, October 18, 1886.

Copy of letter from George Steele, October 25, 1886.

(For inclosures see Nos. 107 and 109, p. —.)

No. 48.

Sir L. West to Mr. Bayard.

WASHINGTON, November 1, 1886. [Received November 2.]

SIR: With reference to your note of the 9th of August last, respecting the treatment of the United States fishing boat Rattler by the

Canadian authorities, I have the honor to inclose to you herewith, in obedience to the instructions of the Earl of Iddesleigh, copy of a dispatch from the administrator of the Government of Canada together with copy of the report of the collector of customs at Shelburne.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure No. 1.]

HALIFAX, NOVA SCOTIA, September 21, 1886.

SIR: I have the honor to inclose herewith a certified copy of a minute of my privy council embodying a report of the minister of customs in relation to the alleged improper treatment of the United States fishing schooner Rattler in being required to report to the collector of customs at Shelburne, Nova Scotia, when seeking that harbor for shelter.

The reply of the collector to the inquiries addressed to him in respect to this matter is appended to the minister's report, and in it the facts of the case as set forth in my telegram of the 14th instant, are given.

I have communicated your dispatch No. 195 of the 1st inst. forwarding Mr. Bayard's protest concerning this case to my ministers and requested to be furnished with a report thereon, which I shall forward for your information as soon as it has been received.

I have, &c.,

A. G. RUSSELL,
General.

[Inclosure No. 2.]

CUSTOM-HOUSE, Shelburne, September 6, 1886.

SIR: I have to acknowledge receipt of your telegram of 4th instant, relative to schooner Rattler, and I wired an answer this morning, as requested on the morning of the 4th ultimo. Chief officer of Terror, accompanied by Capt. A. F. Cunningham, called at this office. Captain Cunningham reported his vessel inwards as follows, viz: Schooner Rattler of Gloucester, 93 tons register; 16 men from fishing bank, with 465 barrels mackerel came in for shelter. I was afterwards informed by the officers of cutter that they found the schooner the evening before at anchor off Sandy Point, 5 miles down the harbor, two men from cutter were put on board, and the master required to report at customs in the morning. I was also informed that the master, Captain Cunningham, made an attempt to put to sea in the night, by hoisting sails, weighing anchor, &c., but was stopped by officers from cutter.

I am, &c.,

W. W. ATTWOOD, Collector.

The COMMISSIONER OF CUSTOMS, Ottawa.

No. 49.

Sir L. West to Mr. Bayard.

WASHINGTON, November 9, 1886. [Received November 10.]

SIR: With reference to your note of the 16th of July last protesting against the action of Captain Kent of the Canadian cruiser General Middleton in expelling Stephen R. Balkam from the harbor of St. Andrews, New Brunswick, I have the honor to communicate to you herewith, in accordance with the instructions of the Earl of Iddesleigh, and in reply to your above-mentioned note, copy of a certified report of the privy council for Canada upon the subject.

I have, &c.,

L. S. SACKVILLE WEST.

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[Inclosure.]

Certified copy of a report of a committee of the honorable the privy council for Canada, approved by his excellency the administrator of the Government in council on the 21st September, 1886.

The committee of the privy council have had under their consideration a dispatch dated 5th August, 1886, from the right honorable the secretary of state for the colonies, transmitting a copy of a letter from the foreign office with a copy of a note from Mr. Bayard, and protesting against the action of Captain Kent, of the Dominion cruiser General Middleton, in refusing Stephen A. Balkam permission to buy fish from Canadians.

The minister of marine and fisheries, to whom the dispatch and inclosures were referred, submits the following report from the first officer of the General Middleton:

"HALIFAX, August 25, 1886.

"I have the honor to state that when boarding several boats in St. Andrews Bay I asked Stephen R. Balkam if the boat he was in was American. He replied that he thought she was. I informed him that if she was American he could not take fish from the weirs on the English side without a permit from the collector of customs at St. Andrews or West Isles.

"He asked permission to take the fish from the weirs in Kelly's Cove without a permit. I declined to accede to his request.

"Mr. Balkam went around the point in his boat, and, after accosting several others, I met him again, evidently trying to evade my instructions. I told him that he must not take the fish without permission from the customs. He left for the American shore and I returned to the Middleton.

"Mr. Stephen R. Balkam I have known for some years. He formerly belonged to St. Andrews, but is now living in Eastport. His business is to carry sardines from the English side to Eastport for canning purposes."

The minister is of opinion, in view of the above, that in warning Mr. Balkam that if his boat belonged to the United States he could not take herring from the weirs without first having reported at the custom-house, Mr. Kent acted within the scope of the law and his instructions.

The committee respectfully advise that your excellency be moved to transmit a copy of this minute to the right honorable the secretary of state for the colonies, as requested in his dispatch of the 5th August last.

JOHN J. MCGEE,
Clerk, Privy Council, Canada.

No. 50.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, November 11, 1886.

SIR: I have the honor to inclose herewith copies of the statements with affidavits from Capt. Medeo Rose, master of the schooner Laura Sayward, of Gloucester, Mass., and of Capt. Joseph Tupper, master of the schooner Jeannie Seaverns, also of Gloucester, forwarded to me by the collector of the port of Gloucester, under date of 5th instant.

The first impressively describes the inhospitable and inhuman conduct of the collector of the port of Shelburne, Nova Scotia, in refusing to allow Captain Rose to buy sufficient food for himself and crew to take them home, besides unnecessarily retaining his papers, and thus preventing him, with a wholly inadequate supply of provisions, from proceeding on his voyage.

The second complaint is of Captain Quigley, commanding the Canadian cruiser Terror, in not only preventing Captain Tupper from land-

ing to visit his relatives in Liverpool, Nova Scotia, but even forbidding his relatives from coming on board his vessel to see him, and likewise placing a guard on board of her to insure that result.

While I need not comment further than I have already done in previous notes on the unjust and unwarrantable acts of the Dominion officials of late towards our fishermen, of which the instances now presented are but repetitions, I must notice the new phase of Captain Quigley's abuse of authority in actually making Captain Tupper a prisoner on board of his own vessel, and in preventing his relatives, whom he states he had not seen for many years, from meeting him.

Such conduct, apart from all its legal and international aspects, is wholly unworthy of any one intrusted with the execution of a public duty and inconsistent with the national reputation for humanity and courtesy of an officer in Her Majesty's service.

I have, &c.,

T. F. BAYARD.

[Inclosure No. 1.]

Mr. Presson to Mr. Bayard.

GLoucester, MASS., Collector's Office, November 5, 1886.

SIR: I transmit herewith, by request, affidavits of Capt. Medeo Rose, of schooner Laura Sayward, and Capt. Joseph Tupper, of schooner Jeannie Seaverns, in relation to their treatment by Canadian officials.

I am, &c.,

D. S. PRESSON,
Collector.

[Inclosure No. 2.]

Affidavit of Captain Rose, of the schooner Laura Sayward.

I, Medeo Rose, master of schooner Laura Sayward, of Gloucester, being duly sworn, do depose and say: That on Saturday, October 2d, being then on Western Bank on a fishing trip, and being short of provisions, we hove up our anchor and started for home. The wind was blowing almost a gale from the northwest, and being almost dead-head we made slow progress on our voyage home. On Tuesday, October 5th, we made Shelburne, Nova Scotia, and arrived in that harbor about 8 p. m. on that day, short of provisions, water, and oil to burn. On Wednesday I sailed for the inner harbor of Shelburne. Arriving at the town about 4 p. m., on going ashore I found the custom-house closed, and hunted up the collector and entered my vessel, and asked permission from him to buy 7 pounds sugar, 3 pounds coffee, one-half to 1 bushel potatoes, and 2 pounds of butter, or lard or pork, and oil enough to last us home, and was refused. I stated to him my situation, short of provisions, and a voyage of 250 miles before me and plead with him for this slight privilege, but it was of no avail. I then visited the American consul and asked his assistance and found him powerless to aid me in this matter. The collector of customs held my papers until the next morning, although I asked for them as soon as I found I could not buy any provisions, say about an hour and a half after I entered, but he refused to give them to me until the next morning. Immediately on receiving my papers on Thursday morning, I started for home, arriving on Sunday. I think the treatment I received harsh and cruel, driving myself and crew to sea with a scant supply of provisions, we having but little flour and water and liable to be buffeted about for days before reaching home.

MEDEO ROSE.

MASSACHUSETTS, Essex, ss:

OCTOBER 13, 1886.

Personally appeared Medeo Rose, and made oath to the truth of the above statement.

Before me,

[SEAL.]

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[Inclosure No. 3.]

Affidavit of Captain Tupper, of the schooner Jeannie Seaverns.

I, Joseph Tupper, master of schooner Jeannie Seaverns, of Gloucester, Mass., being duly sworn, do depose and say: That on Thursday, October 23, while on my passage home from a fishing trip, the wind blowing a gale from southeast, and a heavy sea running, I was obliged to enter the harbor of Liverpool, Nova Scotia, for shelter. Immediately on coming to anchor was boarded by Captain Quigley, of Canadian cruiser Terror, who ordered me to go on shore at once and enter at the custom-house, to which I replied that such was my intention. He gave me permission to take two men in the boat with me, but they must remain in the boat and not step on shore. I asked Captain Quigley if I could, after entering, visit some of my relatives who resided in Liverpool, and whom I had not seen for many years. This privilege he denied me. After entering, having returned to my vessel, some of my relatives came off to see me. When Captain Quigley saw their boat alongside of my vessel he sent an officer and boat's crew, who ordered them away, and at sundown he placed an armed guard on board our vessel, who remained on board all night, and was taken off just before we sailed in the morning.

I complied with the Canadian laws, and had no intention or desire to violate them in any way; but to be made a prisoner on board my own vessel, and treated like a suspicious character, grates harshly upon the feelings of an American seaman, and I protest against such treatment, and respectfully ask from my own Government protection from such unjust, unfriendly, and arbitrary treatment.

JOSEPH TUPPER.

MASSACHUSETTS, Essex, ss:

NOVEMBER 4, 1886.

Personally appeared Joseph Tupper, and made oath to the truth of the above statement.

Before me.

[SEAL.]

AARON PARSONS, N. P.

No. 51.

Sir L. West to Mr. Bayard.

BRITISH LEGATION,

Washington, November 12, 1886. [Received November 12.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, together with certain statements in which complaint is made of the conduct of the collector of customs at Shelburne, Nova Scotia, and the conduct of Captain Quigley, of the Canadian cruiser Terror, in their dealings with certain American fishing vessels, and to inform you that I have forwarded the same to Her Majesty's Government.

I have, &c.,

L. S. SACKVILLE WEST.

No. 52.

Sir L. West to Mr. Bayard.

BRITISH LEGATION,

Washington, November 15, 1886. [Received November 16.]

SIR: With reference to your notes of the 19th and 20th ultimo, I have the honor to inform you that I am requested by the Earl of Iddesleigh to state to you that the Dominion Government have been asked

to furnish immediate reports upon the action of their authorities in the cases of the American fishing vessels Everett Steele and Pearl Nelson. I have, &c.,

L. S. SACKVILLE WEST.

No. 53.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, December 1, 1886.

SIR: As possessing additional and very disagreeable bearing upon the general subject of the harsh treatment of American fishing vessels during the late season by the local authorities of the maritime provinces of Her Majesty's Dominion of Canada, I have the honor to send you herewith a copy of a letter addressed to me, under date of the 12th ultimo, by Capt. Solomon Jacobs, master of the American fishing schooner Molly Adams, of Gloucester, Mass. You will share, I doubt not, the regret I feel at such churlish and inhospitable treatment of a vessel which had freely, and with great loss and inconvenience, rendered such essential service to the suffering and imperiled crew of a Nova Scotian vessel. But for his generous act Captain Jacobs would have had no occasion to put into Malpeque, or, subsequently, when short of provisions, into Port Medway. As his narrative shows, the local authorities at Malpeque treated him with coldness and rudeness, making no provision to receive the Nova Scotian crew he had saved from such imminent danger, even causing him to incur a pecuniary burden in completion of his humane rescue, and even treating the landing of the property so saved from the wreck of the Nova Scotian vessel, on her own shores, as not lawful for an American fishing vessel "within the three-mile limit."

The treatment of Captain Jacobs at Port Medway is a fitting sequel to that received by him at Malpeque. Having undergone fourteen days detention in the latter port, and having shared his purse and slender stock of provisions with the men he had rescued, he put to sea, when, his supplies falling short by reason of his charitable action, he asked leave to purchase at Port Medway "half a barrel of flour, or enough provisions to take his vessel and crew home." With full knowledge of the cause of Captain Jacobs's dearth of provisions, even this the collector at Port Medway absolutely refused, and threatened Captain Jacobs with the seizure of his vessel "if he bought anything whatever." The urgent need of supplies in which Captain Jacobs stood, is shown by the fact that although the run with favorable weather from Port Medway to his home port, Gloucester, Mass., only occupied three days, his crew were on half rations for two days, and without food for one day of that time. It is painful to conjecture what might have been their distress had the Molly Adams encountered storms or head winds.

I am confident that Her Majesty's Government, than which none has more generously fulfilled the obligations of the unwritten code of seafaring humanity, will hasten to rebuke the treatment of Captain Jacobs at the hands of the local authorities of Nova Scotia, by exhibiting gratitude for his act in saving seventeen of their own people from death, and tendering him compensation for the delays and expenses he has undergone through the breaking up of his legitimate fishing venture.

The closing responsible and reports he visited early hostility his brother lar lar fee, was to be liable to pe captain report and the fee wa ter measured and has a tend In my late c results of perm I will not ther I have,

The Hon. SECRET

Sir: I would m the spirit and ma the spirit and ma Dominion of Cana On or about the fall in with the H on Malpeque bar high. The crew seventeen men in Neekilita became

The cutter Crit the harbor of Mal facts of the wreck clothing. He nei them or myself an board, I asked the the local collector of the cutter. As responsibility and could put the save three-mile limit to wrecked crew, bu Finally, I gave th gave them provisio

Malpeque is a b over the bar, and teen feet of water in port in disposi I could get out to Having to feed so afterwards I put i mon to buy half a home. This was anything whatove ing anything and The wind and wer out provisions for that the officials d port, and as there are at the mercy o little knowledge o

The closing part of Captain Jacobs's letter may serve to show the irresponsible and different treatment he was subjected to in the several ports he visited, where the only common feature seems to have been a surly hostility. At Port Hood, for instance, Captain Jacobs being sick, his brother landed and reported in his stead, and, after paying the regular fee, was told that his report was a nullity, and that the vessel would be liable to penalty for unauthorized landing of her crew unless her captain reported in person, which, although ill, he was compelled to do, and the fee was thereupon levied a second time. This is a small matter measured by the amount of the fee, but it is surely discreditable and has a tendency which cannot be too much deplored.

In my late correspondence I have treated of the necessary and logical results of permitting so irritating and unfriendly a course of action, and I will not therefore now enlarge on this subject.

I have, &c.,

T. F. BAYARD.

[Inclosure.]

Captain Jacobs to Mr. Bayard.

GLOUCESTER, November 12, 1886.

THE HON. SECRETARY OF STATE.

SIR: I would most respectfully ask your attention to the following facts as showing the spirit and manner of the application of law on the part of the officials of the Dominion of Canada.

On or about the 26th of September, when off Malpeque, Prince Edward Island, I fell in with the British schooner Neskilita, of Lockeport, Nova Scotia, which had run on Malpeque bar in making the harbor. It was blowing very heavy; sea running high. The crew was taken off by my vessel about 12 o'clock at night. There were seventeen men in all. We took care of them, and fed them for three days. The Neskilita became a total wreck. We saved some of the material.

The cutter Critic, Captain McClellan, one of the Canadian cruisers, was lying in the harbor of Malpeque. The captain boarded my vessel, and I reported to him the facts of the wreck and the condition of the men. They had saved a portion of their clothing. He neither offered to care for the wrecked crew, to feed them, nor to give them or myself any assistance whatever. Having some of the wrecked material on board, I asked the captain of the cutter for permission to land it. He referred me to the local collector. I went to the collector, and he referred me back to the captain of the cutter. As the cutter had gone out, the captain of the Neskilita assumed the responsibility and took the things ashore. The captain of the cutter told me that I could put the saved material on board a Nova Scotia vessel if I went outside of the three-mile limit to do it. I endeavored to get some of the people on shore to take the wrecked crew, but no one would do it unless I would be responsible for their board. Finally, I gave the crew \$60, enough to pay their passage home on the cars, and also gave them provisions to last during their journey.

Malpeque is a barred harbor, and it is only in smooth water that it is safe to go out over the bar, and my vessel drawing fourteen feet of water, and there was only fourteen feet of water on the bar, it was impossible for me to go out. By being detained in port in disposing of this wrecked crew I lost over ten days of valuable time before I could get out to fish, and during that time the fleet took large quantities of mackerel. Having to feed so many on my vessel left me short of provisions, and in a short time afterwards I put into Port Medway, and stated the circumstances, and asked permission to buy half a barrel of flour or enough provisions, to take my vessel and crew home. This was absolutely refused, and the collector threatened me that if I bought anything whatever he would seize my vessel. I was obliged to leave without obtaining anything and came home in three days, on short rations, a distance of 300 miles. The wind and weather being favorable, we had a good passage, but yet we were without provisions for one day before we arrived home. I wish to state most emphatically that the officials differ in their construction of our rights. Fees are different in every port, and as there is no standard of right fixed by our own Government, the fishermen are at the mercy of a class of officials hostile to them and their business, and with but little knowledge of law or its application.

For instance, at Souris, Prince Edward Island, 15 cents is charged. For reporting at Port Mulgrave, Nova Scotia, 50 cents is charged. At Port Hood, I being sick, my brother went to the custom-house to report. The official charged him 25 cents, and told him that unless the captain reported in person the report was invalid; that men from the vessel would not be allowed ashore unless the captain reported.

In the afternoon of the same day I was able to go to the office, and was charged 25 cents for my report, making 50 cents. In the matter of anchorage fees, at Port Mulgrave, Nova Scotia, I paid \$1.50; at Malpeque, \$1; at Sydney, \$1.17. At some ports we have to pay anchorage fees every time we go in, as at Halifax; at others twice for the season.

Now, I would most respectfully state that the official service throughout is actuated apparently from a principle of annoyance wherever and whenever it can be so applied; that there is only harmony of action in this regard alone, and that local laws and regulations are enforced against us without regard to any rights we may have under treaty; that the effect of this enforcement is not to promote but to interfere and to limit by unjust pains, fees, and penalties the right of shelter, obtaining wood and water, and making of repairs guaranteed by treaty of 1818; that instead of the restriction contemplated the local laws make a technical obligation that is without their province or power, and enforce penalties that should never be admitted or allowed by our Government.

And I would pray that in the case recited, and many others that can be shown if required, we may be protected from local laws and their enforcement that abridge our rights and have never received the sanction of the two great contracting powers in the construction and agreement of the treaty of 1818.

I have, &c.,

SOLOMON JACOBS.

\$1.17.]

NORTH SYDNEY, C. B., October 13, 1886.

Molly Adams, 117 tons.—Captain Jacobs to harbor commissioners.

To amount of harbor dues..... \$1 17

Received payment.

M. J. PHUEEN.

No. 100.

\$1.00.]

Dominion of Canada.—Harbor dues.

MALPEQUE, P. E. I., 1886.

Received from Solomon Jacobs, master of the schooner *Molly Adams*, from 118 tons register, the sum of \$1, being harbor dues at this port.

EDWARD LARKINS,
Harbor Master.

No. —.

Dominion of Canada.—Harbor dues.

PORT MULGRAVE, N. S., August 30, 1886.

Received from Solomon Jacobs, master of the schooner *Mollie Adams*, from North Bay, 117 tons register, the sum of \$1.50, being harbor dues at this port.

[SEAL.]

DUNCAN C. GILLIES,
Harbor Master.

No. 54.

Sir L. West to Mr. Bayard.

BRITISH LEGATION,

Washington, December 6, 1886. [Received December 7.]

SIR: With reference to your note of the 27th of October last, I have the honor to inclose herewith a certified copy of a report of a committee

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Certified copy of
approved by his
1886.

The committee
dated 18th Nov
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Canadian laws re
Manan Island.

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of the privy council of Canada, together with copy of the customs laws, which documents contain the information required respecting the sale and exportation of fresh herring from Grand Mandan Island.

I have, &c.,

L. S. SACKVILLE WEST.

Certified copy of a report of a committee of the honorable the privy council of Canada, approved by his excellency the governor-general, in council, on the 24th day of November, 1886.

The committee of the privy council having had their attention called by a telegram, dated 15th November instant, from Her Majesty's minister at Washington, to his former dispatch of the 28th October ultimo, inclosing a copy of a note from the honorable Mr. Bayard, and the inclosures, asking for authentic information respecting the Canadian laws regulating the sale and exportation of fresh herring from the Grand Mandan Island.

The minister of marine and fisheries, to whom said dispatch was referred for early report, states that any foreign vessel "not manned nor equipped, nor in any way prepared for taking fish," has full liberty of commercial intercourse in Canadian ports upon the same conditions as are applicable to regularly registered foreign merchant vessels; nor is any restriction imposed upon any foreign vessel dealing in fish of any kind different from those imposed upon foreign merchant vessels dealing in other commercial commodities.

That the regulations under which foreign vessels may trade at Canadian ports are contained in the customs laws of Canada (a copy of which is herewith), and which render it necessary, among other things, that upon arrival at any Canadian port a vessel must at once enter inward at the custom-house, and upon the completion of her loading, clear outwards for her port of destination.

The committee recommend that your excellency be moved to transmit a copy of this minute, together with a copy of the customs laws, as containing authentic information respecting Canadian laws regulating the sale and exportation of fresh herring, to Her Majesty's minister at Washington, for the information of the honorable Mr. Bayard, Secretary of State for the United States.

JOHN J. MCGEE,
Clerk, Privy Council.

FORTY-SEVEN VICTORIA, CHAP. 29.

AN ACT to amend the customs act, 1883. Assented to April 10, 1884.

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. Section 188 of "the customs act, 1883," is repealed and the following section enacted in lieu thereof:

"188. All penalties and forfeitures incurred under this act or any other law relating to the customs or to trade or navigation, may, in addition to any other remedy provided by this act or by law, be prosecuted, sued for and recovered with full costs of suit, in the exchequer court of Canada, or in any superior court or court of vice-admiralty, having jurisdiction in that province in Canada where the cause of prosecution arises, or wherein the defendant is served with process; and if the amount of any such penalty or forfeiture does not exceed \$200, the same may, in the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, British Columbia, Manitoba, and Prince Edward Island, respectively, also be prosecuted, sued for, and recovered in any court having jurisdiction in the place where the cause of prosecution arises, or where the defendant is served with the process."

2. Section 153 of the said act is repealed and the following section enacted in lieu thereof:

"153. If any person, with intent to defraud the revenue of Canada, smuggles or clandestinely introduces into Canada any goods subject to duty, or makes out, or issues, or attempts to pass through the custom-house any false, forged, or fraudulent invoice, or in any way attempts to defraud the revenue by evading the payment of duty, or of any part of the duty on any goods, such goods shall be seized and forfeited; and every such person, his aiders and abettors, shall, in addition to any other

penalty or forfeiture to which he and they may be subject for such offense, be liable, on conviction, to a penalty of not less than \$50 and not more than \$200, or to imprisonment for a term not less than one month nor more than one year, or to both fine and imprisonment within the said limits; and such conviction may be had in a summary manner, before any two justices of the peace or before any judge or magistrate having the powers of two justices of the peace."

3. Section 86 of the said act is hereby repealed.

4. This act shall be construed as part of the act amended by it, but its provisions, so far as they differ from those for which they are substituted, shall apply not only to cases in which the offense has been committed, but also to those in which the prosecution for the penalty or forfeiture thereby incurred is commenced after the passing of this act, although the offense was committed before the passing thereof.

FORTY-SIX VICTORIA, CHAP. 12.

AN ACT to amend and consolidate the acts respecting the customs. Assented to 25th May 1883.

Her Majesty by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. This act may be cited as "the customs act, 1883."

2. This act shall be construed as being passed in amendment and consolidation of the act passed in the fortieth year of Her Majesty's reign (A. D. 1877), entitled "An act to amend and consolidate the act respecting the customs," and of any act amending the same.

3. This act shall come into force upon, from, and after the day of the passing thereof, and upon, from, and after the said day the acts and part of acts mentioned in the schedule hereto, and all acts, enactments, or provisions of law inconsistent with this act, or making any provision for any matter provided for by this act, are hereby repealed, and this act is substituted for them; provided always, that all acts or enactments repealed by any of the said acts shall remain repealed, and that all orders in council and regulations made under the acts hereby repealed, or under any former act relating to customs, so far as the same have not been revoked, or are not inconsistent herewith, shall remain in force until revoked or altered by competent authority; and all things lawfully done, and all obligations incurred, bonds given, duties accrued, and rights acquired under the said acts, or any of them, shall remain valid and may be enforced, and all offenses committed, penalties, forfeitures, or liabilities incurred under them, or any of them, may be prosecuted, punished, and enforced, and all proceedings and things lawfully commenced under them, or any of them, may be continued and completed under the said acts, or under corresponding provisions of this act, which shall not be construed as new law, but as a consolidation and continuation of the said repealed acts, subject to the amendments and new provisions hereby made. Anything heretofore done, or any offense committed or liability incurred under any provisions of any of the said repealed acts, which is repeated without material alteration in this act, may be alleged or referred to as having been done, committed, or incurred under the repealed act in which such provision was made, or under this act; and every such provision shall be construed as having had and as having the same effect, and from the same time, as under such repealed act, and any reference in any former act or document to any such provision in any of the said repealed acts, may hereafter be construed as a reference to the corresponding provision of this act.

4. The following terms and expressions wherever used in this act, or in any other laws relating to the customs, shall, unless it be otherwise specially provided, or there be something in the context repugnant to or inconsistent with such construction, be construed and interpreted as follows: The word "port" means a place where vessels or vehicles may discharge or load cargo; the word "collector" means the collector of the customs at the port or place intended in the sentence, or any person lawfully deputed, appointed, or authorized to do the duty of collector thereat; the word "officer" means an officer of the customs; the word "vessel" means any ship, vessel, or boat of any kind whatever, whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only, unless the context be manifestly such as to distinguish one kind or class of vessel from another, and the word "vessel" includes "vehicle"; the word "vehicle" means any cart, car, wagon, carriage, harrow, sleigh, or other conveyance of what kind soever, whether drawn or propelled by steam, by animals, by hand or other power, and includes the harness or tackle of the animals, and includes also the fittings, furnishings, and appurtenances of the vehicle; the word "master" means the person having or taking charge of any vessel or vehicle; the word "conductor" means the person in charge or having the chief direction of any railway train; the words "owner," "importer," or "exporter,"

mean the owners, importers, or exporters, if there be more than one in any case, and include persons lawfully acting on their behalf; the word "goods" means goods, wares, and merchandise, or movable effects of any kind, including carriages, horses, cattle, and other animals, except where these latter are manifestly not intended to be included by the said word; the word "warehouse" means any place, whether house, shed, yard, dock, pond, or other place in which goods imported may be lodged, kept, and secured without payment of duty; "customs warehouse" includes surfeiture warehouse, bonding warehouse, and examining warehouse; the word "oath" includes declaration and affirmation. The use of the terms "seized and forfeited," "liable to forfeiture," or "subject to forfeiture," or other term which might of itself imply that some act subsequent to the commission of the offense is necessary to work the forfeiture, shall not be construed as rendering any such subsequent act necessary, but the forfeiture shall accrue at the time of and by the commission of the offense, in respect of which the penalty of forfeiture is imposed. All the terms and provisions of this act, or of any such law as aforesaid, shall receive such fair and liberal construction and interpretation as will best insure the protection of the revenue and the attainment of the purpose for which this act or such law was made, according to its true intent, meaning, and spirit.

3. The following provisions of this act shall apply to all duties of customs imposed by any act of the Parliament of the Dominion of Canada, whether now in force or passed in the present session or in any future session of the said Parliament.

4. On each and every non-enumerated article which bears a similitude, either in material, quality, or the use to which it may be applied, to any enumerated article chargeable with duty, the same rate of duty shall be payable which is charged on the enumerated article which it most resembles in any of the particulars before mentioned.

5. If any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, the duty on such non-enumerated article shall be the same as that on the enumerated article which it resembles, paying the highest duty.

6. On all articles manufactured from two or more materials, the duty shall be that charged on the article (if there be a difference of duty) which is charged with the highest duty.

7. If an article be enumerated in the tariff under two or more names or descriptions, and there be a difference of duty, the highest duty provided shall be charged and collected thereon.

8. Spirits and strong waters, from whatever substance distilled or prepared, having the flavor of any kind of spirits or strong waters, subject to a higher duty than whisky, shall be liable to the duty imposed on spirits or strong waters of which they have the flavor.

9. Inasmuch as disputes may arise as to whether any or what duty is payable on particular goods, therefore when there is no decision in the matter by any competent tribunal, or there are decisions inconsistent with each other, the governor in council may declare the duty payable on the kind of goods in question, or that such goods are exempt from duty; and any order in council containing such declaration and fixing such duty (if any) and published in the Canada Gazette, shall, until otherwise ordered by Parliament, have the same force and effect as if such duty had been fixed and declared by law; and a copy of the said Gazette containing a copy of any such order shall be evidence thereof.

10. All duties, penalties, or forfeitures imposed by any act relating to the customs shall be payable in money, being a legal tender, at such rate as that $\$4.86\frac{1}{2}$ of such money shall be of equal value with the British sovereign or pound sterling; and all such duties shall be paid and received according to the weights and measures established by statute in that behalf:

(1) All invoices of goods shall be made out in the currency of the country whence the goods are imported, and shall contain a true statement of the value of such goods; and in computing the value for duty of such currency, the rate thereof shall be such as has been ordered and proclaimed from time to time by the governor in council, who is hereby empowered to make such order; and the rate ordered shall be based upon the actual value of the standard coins or currency of such country as compared with the standard dollar of Canada in so far as such comparative values are known; and in all cases wherein the value of a currency has not been proclaimed, or where there is no fixed standard value, or wherein from any cause the value of such currency has become depreciated, then there shall be attached to the invoice of the goods imported the certificate of some consul resident in such place or country, showing the extent of such depreciation, or the true value of the currency in which such invoice is made out, then and there, as compared with the standard dollar of Canada; provided, however, that in cases where the value of a depreciated currency is dependent upon the rate of exchange on London, it shall be optional with the importer, with the consent of collector of customs, to compute the value for duty at the rate of exchange

certified by the bank through which drawn, as current at the time and place when and whence the goods were exported to Canada; provided further, that when the currency value is so determined at the time of entry, either by a consul's certificate, or by the certificate of the bank as above provided, such rate or value shall be final and not open to any readjustment by reason of the subsequent production of any certificate not corresponding in rate or value with that adopted.

13. In all cases wherein the duties are imposed according to any specific quantity or to any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value, and to any fractional part of such specific quantity.

14. The duties imposed by any act relating to the customs shall be held to be duties within the meaning of the act of the Parliament of Canada, entitled "An act to provide for the better auditing of the public accounts," and of any act of the said Parliament amending the same, and shall, with all matters and things thereunto relating, be subject to the provision of the said act or acts, and to the regulations and orders of the governor in council, made or to be made under the authority thereof, in so far as the same are not inconsistent with this act; and all moneys arising from such duties, or from any penalties hereby imposed, and belonging to Her Majesty, shall be paid over by the officer receiving the same to the receiver-general, and shall form part of the consolidated revenue fund of Canada.

15. The true amount of customs duties payable to Her Majesty with respect to any goods imported into Canada or exported therefrom, and the additional sum (if any) payable under section 102 of this act, shall, from and after the time when such duties should have been paid or accounted for, constitute a debt due and payable to Her Majesty, jointly and severally, from the owner of the goods at the time of the importation or exportation thereof, and from the importer or exporter thereof, as the case may be; and such debt may at any time be recovered with full costs of suit in the exchequer court of Canada, or in any provincial court having jurisdiction in cases of debt to the amount claimed.

16. No goods shall be unladen from any vessel arriving at any port or place in Canada from any place out of Canada, nor from any vessel having dutiable goods on board brought coastwise, nor shall bulk be broken within 3 leagues of the coast until due entry has been made of such goods, and warrant granted for the unloading of the same; and no goods shall be so unladen (unless for the purpose of lightening the ship or vessel in crossing over a shoal or bar or sand-bank) except between sunrise and sunset, and on some day not being a Sunday or statutory holiday, and at some hour and place at which an officer of the customs is appointed to attend the unloading of goods, or at some place for which a surfrance has been granted by the collector or other proper officer for the unloading of such goods; and if, after the arrival of the vessel within 3 leagues of the coast, any alteration be made in the stowage of the cargo so as to facilitate the unlawful unloading of any part thereof, or if any part thereof be fraudulently staved, destroyed, or thrown overboard, or any package be opened, it shall be deemed a breaking of bulk, and all goods unladen contrary to this act shall be seized and forfeited; and if bulk be broken contrary to this act, the master shall forfeit \$200, and the vessel may be detained until the said fine is paid or satisfactory security is given for the payment thereof; and unless payment be made or security be given within thirty days such vessel may, at the expiration thereof, be sold to pay the said penalty.

17. The governor in council may, by regulation from time to time, appoint the ports and places of entry for the purposes of this act, and may in like manner increase or diminish the number, or alter the position or limits thereof.

18. All goods imported into Canada, whether by sea, land, coastwise, or by inland navigation, whether dutiable or not, must be brought in at a port of entry where a custom-house is lawfully established.

19. All goods or merchandise exported by sea, land, or by inland navigation, must be reported at the nearest custom-house, or, if exported from any place where no custom-house is established, they must be reported within twenty-four hours of the date of such export at the nearest custom-house, according to such regulations as may be established by the governor in council from time to time.

20. If any goods are imported into Canada at any other place than at some port or place of entry at which a custom-house is then lawfully established, or being brought into such port or place of entry by land or inland navigation, are carried past such custom-house or removed from the place appointed for the examination of such goods by the collector or other officer of the customs at such port or place before the same have been examined by the proper officer and all duties thereon paid and a permit given accordingly, such goods shall be seized and forfeited; and each and every person concerned in such unlawful importation or removal shall be subject to a penalty equal to the value of such goods.

21. If any vessel with dutiable goods on board enters any place other than a port of entry (unless from stress of weather or other unavoidable cause), such goods (ex-

cept those of an in-

22. If any vessel place other than (cause), such goods and the vessel may be liable to a penalty of \$800, and the vessel may be given for the security be given to pay the sum.

23. If any goods together with the horses or other such goods.

24. If any goods, be seized and master, or any of employed by any importation, shall than \$50 nor more more than twelve.

25. The master of Canada, or coast shall go without for the port or place the collector or other her name, country of the crew, and members of every pack and the particulars where any and which broken, during the passengers which other port in Canada in the same vessel, particulars can be.

26. In the case of Canada, the collector to be boarded place within 3 miles from the master intended by him to enter may remain on received by him shipwards for company.

27. The master of ing by inland navigation beyond the limits of liable on such goods moored, directly to port in writing (in authority), to the collector in such report the vessel, or in the case respectfully brought as such particulars to the collector or unladen from such vessel shall further answer demanded of him by

28. The master of customs, produce to shall make and submit-ments made in concerning the vessel of him by such officer of his report.

cept (those of an innocent owner) shall be seized and forfeited, together with the vessel in which the same were imported, if such vessel is of less value than \$800.

22. If any vessel, worth more than \$800, with dutiable goods on board, enters any place other than a port of entry (unless from stress of weather or other unavoidable cause), such goods (except those of an innocent owner) shall be seized and forfeited, and the vessel may be seized and the master or person in charge thereof shall incur a penalty of \$800, and the vessel may be detained until such penalty be paid or security given for the payment thereof; and, unless payment be made or satisfactory security be given within thirty days, such vessel may, at the expiration thereof, be sold to pay the said penalty.

23. If any goods are unlawfully imported by land they shall be seized and forfeited, together with the vehicle in or by which such goods are so imported or removed, and the horses or other cattle employed in drawing such vehicle, or in importing or removing such goods.

24. If any goods are unlawfully imported on any railway they shall, in like manner, be seized and forfeited, and the car in which such goods were so imported shall be seized and detached from the train and forfeited; and any conductor, baggage-master, or any officer or servant employed on any railway, and any officer or servant employed by any express company, who is privy to or aids or abets in such unlawful importation, shall, upon summary conviction thereof, be liable to a fine of not less than \$50 nor more than \$200, or to imprisonment for not less than three months nor more than twelve months, or to both fine and imprisonment within the said limits.

25. The master of every vessel coming from any port or place out of the Dominion of Canada, or coastwise, and entering any port in Canada, whether laden or in ballast, shall go without delay, when such vessel is anchored or moored, to the custom-house for the port or place of entry where he arrives, and there make a report in writing to the collector or other proper officer, of the arrival and voyage of such vessel, stating her name, country, and tonnage, the port of registry, the name of the master, the country of the owners, the number and names of the passengers (if any), the number of the crew, and whether she is laden or in ballast, and if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stowed loose, and where and to whom consigned, and where any and what goods, if any, have been laden or unladed, or bulk has been broken, during the voyage, what part of the cargo and the number and names of the passengers which are intended to be landed at that port, and what and whom at any other port in Canada, and what part of the cargo (if any) is intended to be exported in the same vessel, and what surplus stores remain on board—as far as any of such particulars can be known to him.

26. In the case of every vessel bound for any seaport in Canada, from any port out of Canada, the collector or proper officer of such Canadian port may cause such vessel to be boarded by an officer of customs, detailed by him for such service, at any place within three marine miles of the anchorage ground, and such officer may demand from the master or purser of such vessel a correct copy of the report inwards, intended by him to be presented at the custom-house on arrival. Such boarding officer may remain on board the vessel until she anchors, and the copy of the report so received by him shall be deposited by him at the custom-house as the vessel's report inwards for comparison with that to be presented by the master in person.

27. The master or person in charge of any vessel, whether laden or in ballast, arriving by inland navigation in any port or place of entry in Canada, from any place beyond the limits of Canada, and having any goods therein (whether any duty be payable on such goods or not) shall go without delay, when such vessel is anchored or moored, directly to the custom-house for such port or place of entry, and make a report in writing (in such form as may be appointed for that purpose by competent authority), to the collector or other proper officer, of the arrival of such vessel, stating in such report the marks and numbers of every package and parcel of goods in such vessel, or in the charge and custody of such person, from what place the same are respectfully brought, and to what place and to whom consigned or belonging, as far as such particulars are known to him; and he shall then and there produce such goods to the collector or other proper officer, and shall declare that no goods have been unladed from such vessel or have been put out of his possession, between the time of his coming within the limits of Canada and of his making his report and affidavit, and shall further answer all such questions concerning such vessel or goods as are demanded of him by such collector or officer.

28. The master shall at the time of making his report, if required by the officer of customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall make and subscribe an affidavit referring to his report and declaring that all the statements made in the report are true; and shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as shall be demanded of him by such officer, and shall, if required, make the substance of any such answer part of his report.

any place within or without Canada, to be a coasting trade or a coasting voyage within the meaning of this act, whether such seas, rivers, lakes, or waters are or are not, geographically or for the purposes of other acts or laws, inland waters; and all carrying by water, which is not a carrying by sea or coastwise, shall be deemed to be carrying by inland navigation; and the governor in council may, from time to time, with regard to any such coasting trade, dispense with such of the requirements of this act as he deems it inexpedient to enforce in any case or class of cases, or make such further regulations as he may think expedient; and any goods carried coastwise, or laden, water-borne or unladen, contrary to such regulations or to any provision of this act, not dispensed with by such regulations, shall be seized and forfeited.

38. It shall not be lawful, unless otherwise authorized by the governor in council, to import any goods, wares, or merchandise from any port or place out of Canada in any vessel which has not been duly registered and has not a certificate of such registry on board.

39. If any goods are unladen from any vessel or vehicle, or put out of the custody of the master or person in charge of the same, before report is made as required by this act, or if such person or master fails to make such report, or to produce such goods, or makes an untrue report, or does not truly answer the questions demanded of him, he shall for each such offense forfeit the sum of \$400; and if any such goods are not so reported and produced, or if the marks and numbers or other description of any package do not agree with the report made, such goods or package shall be seized and forfeited, and the vessel or vehicle and the animals drawing the same shall be detained until such amount be paid.

40. Every importer of any goods by sea or from any place out of Canada shall, within three days after the arrival of the importing vessel, make due entry inwards of such goods, and land the same; and every importer of any goods imported by inland navigation in a decked vessel of 100 tons burden or more, shall, within twenty-four hours of the arrival of the importing vessel, make due entry inwards of such goods, and land the same; and every importer of any goods imported by inland navigation in any undecked vessel, or in any vessel less than 100 tons burden, or by land, shall, forthwith, after the importation of such goods, produce the same to the proper officer and make due entry thereof.

41. The person entering any goods inwards shall deliver to the collector or other proper officer, an invoice of such goods showing the place and date of purchase and the name or style of the firm or person from whom the goods were purchased, and a full description thereof in detail, giving the quantity and value of each kind of goods so imported, and a bill of the entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written and partly printed, and in duplicate, containing the name of the importer,—and, if imported by water, the name of the vessel and of the master, and of the place to which bound, and of the place, within the port, where the goods are to be unladen,—and the description of the goods, and the marks and numbers and contents of the packages, and the place from which the goods are imported, and of what country or place such goods are the growth, produce, or manufacture.

42. Unless the goods are to be warehoused in the manner by this act provided, the importer shall, at the same time, pay down, or cause to be so paid, all duties upon all goods entered inwards; and the collector or other proper officer shall, immediately thereupon, grant his warrant for the unloading of such goods, and grant a permit for the conveyance of the same goods further into Canada, if so required by the importer.

43. In default of such entry and landing, or production of the goods, or payment of duty, the officer of customs may convey the goods to a customs warehouse, or some secure place appointed by the collector for such purpose, there to be kept at the risk and charge of the owner; and if such goods be not duly entered within one month from the date of their being so conveyed to the custom warehouse, or other appointed place, and all charges of removal and warehouse rent duly paid at the time of such entry, the goods shall be sold by public auction to the highest bidder, and the proceeds thereof shall be applied, first to the payment of duties and charges, and the overplus, if any, after discharging the vessel's lien, or other charges for transportation, shall be paid to the owner of the goods or to his lawful agent; provided, always, that in case the same cannot be sold for a sum sufficient to pay the duties and charges if offered for sale for home consumption, or the charges if offered for sale for exportation, such goods shall not be sold, but be destroyed.

44. Any goods unladen or landed before due entry thereof and warrant for landing, shall be seized and forfeited, and any person concerned in landing or receiving or concealing goods so landed, shall, for each offense, forfeit \$400.

45. If any goods are brought in any decked vessel, from any place out of Canada to any port of entry therein, and not landed, but it is intended to convey such goods to some other port in Canada in the same vessel, there to be landed, then the duty shall not be paid nor the entry completed at the first port, but at the port where the goods are to be landed, and to which they shall be conveyed accordingly, under such regu-

dampness, or other cause existing before the voyage commenced, and which may have rendered the goods unfit to withstand the ordinary risks of the voyage of importation, nor shall he estimate nor shall any allowance be made for or duty refunded for rust on iron or steel or any manufacture thereof, except on polished Russia iron and Canada plates, and on such only to the extent of 50 per cent., nor shall any allowance be made for stains or injury to any packages holding liquids, or the labels thereon, unless the contents of such packages have, at the same time, received actual specific damage by the admixture therewith of water or other foreign substance.

57. Upon the collector or appraiser ascertaining the percentage of damage, such percentage shall be deducted from the original value thereof, and duty shall then be levied and collected on such reduced value at an ad valorem rate which shall be equivalent to the rate of specific or specific and ad valorem duty which should have been collected upon such goods if they had not been so damaged.

58. When any vessel is entered at the custom-house at any port in Canada, on board of which there are any goods on which any duty has been levied or collected or on which any duty has been deposited, and thereafter the said goods are lost or destroyed before the same are landed from such vessel, or from any vessel or craft employed to lighten such vessel, then, on proof being made on the oath of one or more credible witnesses or witnesses, before and to the satisfaction of the collector or proper officer of the customs at the place (who shall administer the oath) that such goods, or any part thereof (specifying the same), have been so lost or destroyed before the landing of the same, the duties on the whole or the part thereof so proved to be lost or destroyed shall, if the same have been paid or deposited, be returned to the owner or his agent.

59. If any vessel having received damage puts into a port in Canada to which she is not bound, having dutiable goods on board, which it may be necessary to land for the purpose of repairing the vessel in order to enable her to proceed on her voyage, the collector, upon application of the master or agent, may permit such goods to be unladen and deposited in a warehouse in the custody of the collector; and the collector shall cause to be taken an exact account of the packages and contents, and entry of the goods shall then be made by the master or agent as hereinbefore directed, and they shall remain in the custody of the collector until the vessel's ready for sea, when upon payment of storage and the reasonable charges of unloading and storing, the collector shall deliver up the same to the master or agent to be exported or carried coastwise, as the case may be, under the same security and regulations as if such goods had been imported in the usual manner, and without payment of duty. No person shall be entitled to the benefit of this section who shall have sold any of such goods, except such as it may have been necessary to sell to defray the expense of repairs and charges of the vessel, or as may have been authorized by the collector of customs; and if goods are sold for payment of repairs and charges they shall be subject to duty, and shall be warehoused, or the duties thereon paid by the purchaser.

60. Goods derelict, flotsam, jetsam, or wreck, or landed or saved from any vessel wrecked, stranded, or lost, brought, or coming into Canada, shall be subject to the same duties and regulation as goods of the like kind imported are subject to.

61. If any person has in his possession, in port or on land, any goods, derelict, flotsam, jetsam, or wreck, the same being dutiable, and does not give notice thereof to the nearest officer of customs without unnecessary delay, or does not on demand pay the duties thereon or deliver the same to the proper officer, he shall forfeit \$200, in addition to all other liabilities and penalties incurred by him, and the goods shall be seized and forfeited; and if any person removes or alters in quantity or quality any such goods, or unnecessarily opens or alters any package thereof or abets any such act before the goods are deposited in a warehouse under the custody of the customs officers, he shall, in addition to all other liabilities and penalties incurred by him, forfeit \$200.

62. If the duties on such goods are not paid within eighteen months from the time when the same were so delivered as aforesaid, the same may be sold in like manner and for the same purposes as goods imported may in such default be sold; if they are sold for more than enough to pay the duty and charges thereon, the surplus shall be paid over to the person entitled to receive it.

63. All goods exempt from duty as being imported or taken out of warehouse for the use of Her Majesty's troops, or for any purpose for which such goods may be imported free of duty, shall, in case of the sale thereof after importation, become liable to and charged with the duties payable on like goods on their importation for other purposes; and if such duties be not paid, such goods shall be forfeited, and may be seized and dealt with accordingly.

64. In all cases where duties are charged according to the weight, tale, gauge, or measure, such allowances shall be made for tare and draft upon the packages as may be appointed by regulation made by the governor in council; but when the original invoice of any goods is produced, and a declaration of the correctness thereof made as hereinbefore provided, the tare according to such invoice shall be deducted from the

gross weight of the goods instead of the allowances aforesaid; subject, however, to such further regulation as the governor in council may, from time to time, make.

65. The collector or any appraiser under this act, may take samples of any goods imported, for the purpose of ascertaining whether any and what duties are payable on such goods, and such samples shall be disposed of as the minister of customs may direct.

66. The governor in council may appoint one or more appraisers, to be called Dominion customs appraisers, with jurisdiction at all ports and places in Canada; and may also appoint customs appraisers with jurisdiction at such ports and places in Canada as may be designated in the order in council in that behalf; and each such appraiser shall, before acting as such, take and subscribe the following oath of office before any collector or other person duly authorized to administer such oath:

"I, A. B., having been appointed an appraiser of goods, wares, and merchandise, and to act as such at the port of — (or as the case may be), do solemnly swear (or affirm) that I will faithfully perform the duties of the said office without partiality, fear, favor or affection, and that I will appraise the value of all goods submitted to my appraisement according to the true intent and meaning of the laws imposing duties of customs in this Dominion; and that I will use my best endeavors to prevent all fraud, subterfuge, or evasion of the said laws, and more especially to detect, expose, and frustrate all attempts to undervalue any goods, wares, or merchandise on which any duty is chargeable. So help me God."

A. B.,
Appraiser for
(as the case may be.)

"Sworn before me, this

18. " (as the case may be.) day of

67. If no appraiser is appointed in any port of entry, the collector there shall act as appraiser, but without taking any special oath of office as such; and the minister of customs may, at any time, direct any appraiser to attend at any port or place for the purpose of valuing any goods, or of acting as appraiser there during any time which such appraiser shall accordingly do without taking any new oath of office; and every appraiser shall be deemed an officer of the customs.

68. Where any duty ad valorem is imposed on any goods imported into Canada, the value for duty shall be the fair market value thereof, when sold for home consumption, in the principal markets of the country whence and at the time when the same were exported directly to Canada.

69. Such market value shall be the fair market value of such goods in the usual and ordinary commercial acceptance of the term, at the usual and ordinary credit, and not the cash value of such goods, except in cases in which the article imported is by universal usage, considered and known to be a cash article, and so bona fide paid for in all transactions in relation to such article; and all invoices representing cash values, except in the special cases hereinbefore referred to, shall be subject to such additions as to the collector or appraiser of the port at which they are presented may appear just and reasonable, to bring up the amount to the true and fair market value as required by this section.

70. Where a drawback of duties has been allowed by the government of the country where the goods were manufactured, the amount of such drawback shall be taken and considered to be a part of the fair market value of such goods; and in cases where the amount of such drawback has been deducted from the value of such goods upon the face of the invoice under which entry is to be made, or is not shown thereupon, the collector of customs, or proper officer, shall add the amount of such deduction of drawback and collect and cause to be paid the lawful duty thereon.

71. No deduction of any kind shall be allowed from the value of any goods imported into Canada because of any drawback paid or to be paid thereon, or because of any special arrangement between the seller and purchaser having reference to the exportation of such goods, or the exclusive right to territorial limits for the sale thereof, or because of any royalty payable upon patent rights but not payable when goods are purchased for exportation, or on account of any other consideration by which a special reduction in price might or could be obtained; provided that nothing herein shall be understood to apply to general fluctuations of market values.

72. No deduction from the value of goods contained in any invoice shall be allowed on account of the assumed value of a package or packages, where no charge for such package or packages has been made in such invoice; and where such charge is made it shall be the duty of the customs officer to see that the charge is fair and reasonable and represents no more than the original cost thereof.

73. No deduction from the value of goods in any invoice shall be made on account of charges for packing, or for straw, twine, cord, paper, cording, wiring, or cutting, or for any expense incurred or said to have been incurred in the preparation and

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packing of goods for shipment, and all such charges and expenses shall, in all cases, be included as part of the value for duty.

74. The governor in council may provide that in the cases and on the conditions to be mentioned in the order, goods bona fide exported to Canada from any country, but passing *in transitu* through another country, shall be valued for duty as if they were imported directly from such first-mentioned country.

75. The standards or instruments by which the colors and grades of sugar are to be regulated, and the class to which sugars shall be held to belong, with reference to duty chargeable thereon, shall be selected and furnished from time to time to the collectors of such ports of entry as may be necessary, by the minister of customs, in such manner as he may deem expedient; and the decision of the appraiser, or of the collector of a port where there is no appraiser, as to the class to which any sugar belongs, and the duties to which it is subject, shall be final and conclusive, unless upon appeal to the commissioner of customs, within thirty days, such decision be, with the approval of the minister, changed; the decision of the commissioner, with such approval, shall then be final.

76. All cane-juice, sirup of sugar or of sugar-cane, melado, concentrated melado or concentrated molasses, entered as molasses, or under any other name than cane-juice, sirup of sugar or of sugar-cane, melado, concentrated melado, or concentrated molasses, shall be seized and forfeited.

77. The value for duty on which any ad valorem duties on sugar, molasses, melado, sirup of sugar, or sugar-cane, sirup of molasses or of sorghum, concentrated melado or concentrated molasses, and sugar candy, shall, unless otherwise provided, be calculated and taken, shall include the value of the packages containing the same, and the shipping and other charges on such articles; and the value for duty shall be the value of the goods "free on board," at the place or port whence last exported direct to Canada; and the governor in council shall have power to declare what charges shall be included in such value so defined.

78. The governor in council shall have power to interpret, limit or extend the meaning of the conditions upon which it is provided in any act imposing duties of customs, that any article may be imported free of duty for special purposes, or for particular objects or interests; and to make regulations either for declaring or defining what cases shall come within the conditions of such act, and to what objects or interests of an analogous nature, the same shall apply and extend, and to direct the payment or non-payment of duty in any such case, or the remission thereof by way of drawback if such duty has been paid.

79. If the importer of any goods whereon a duty ad valorem is imposed, or the person authorized to make the declaration required with regard to such goods, makes and subscribes a declaration before the collector or other proper officer, that he cannot, for want of full information, make perfect entry thereof, and takes the oath in such cases provided, then the collector or officer may cause such goods to be landed on a bill of sight for the packages and parcels thereof, by the best description that can be given, and to be seen and examined by such person and at his expense, in the presence of the collector or principal officer, or of such other officer of the customs as shall be appointed by the said collector or other proper officer, and to be delivered to such person, on his depositing in the hands of the collector or officer a sum of money sufficient in the judgment of the collector or officer to pay the duties thereon; and if the importer does not complete a perfect entry within the time appointed by the collector, the money so deposited shall be taken and held to be the duty accruing on such goods, and shall be dealt with and accounted for accordingly.

80. Such sight entry may be made as aforesaid and the goods may be delivered, if such importer or person as aforesaid makes oath or affirms that the invoice has not been and cannot be produced, and pays to the collector or proper officer aforesaid a sum of money sufficient in the judgment of such collector or officer to pay the duties on such goods, and such sum shall then be held to be the amount of the said duties.

81. Except only in cases where it is otherwise provided herein or by regulation of the governor in council, no entry shall be deemed perfect unless a sufficient invoice of the goods to be entered, duly certified in writing thereon as correct by the person, firm, and corporation from whom the said goods were purchased, has been produced to the collector and duly attested as required by this act.

82. With the bill of entry of any goods there shall be produced and delivered to and left with the collector an invoice of the goods, as provided in the next preceding section, attested by the oath of the owner, and if the owner be not the person entering such goods then verified by the oath of the importer or consignee, or (subject to the provision hereinafter made) other person who may lawfully make such entry and verify such invoice in the form or to the effect of the oath or oaths provided or to be provided by order in council in that behalf, which oath or oaths shall be written or printed, or partly written and partly printed on such invoice, or on the bill of entry (as the case may be), or shall be annexed thereto, and shall in either case distinctly refer to such invoice so that there can be no doubt as to its being the invoice to which

such oath is intended to apply, and shall be subscribed by the party making it and certified by the signature of the person before whom it is made; and the bill of entry shall also contain a statement of the quantity and value for duty of the goods therein mentioned, and shall be signed by the person making the entry, and shall be verified in the form or to the effect of the oath provided or to be provided by order in council in that behalf.

83. If there be more than one owner, importer, or consignee of any goods, any one of them cognizant of the facts may take the oath required by this act; and such oath shall be sufficient unless the goods have not been obtained by purchase in the ordinary way, and some owner resident out of Canada is the manufacturer or producer of the goods, or concerned in the manufacture or production thereof, in which case the oath of such non-resident owner (or one of them, if there be more than one) cognizant of the fact shall be requisite to the due attestation of the invoice.

84. The invoice of any goods produced and delivered to the collector with the bill of entry thereof, must, if required by the collector, be attested by the oath of the owner or one of the owners of such goods, and must be verified also by the oath of the importer, or consignee, or other person who may, under this act, lawfully make entry of such goods and verify such invoice, if the owner or one of the owners is not the person entering such goods, and must also, if required by the collector, be attested by the oath of the non-resident owner being the manufacturer or producer of such goods, in the case mentioned in the next preceding section, although one of the owners be the person entering the goods and verifying the invoice on oath.

85. If the owner, importer, or consignee of any goods be dead, or a bankrupt, or insolvent, or if for any cause his personal estate be administered by another person, then his executor, curator, administrator, or assignee, or person administering the aforesaid, may, if cognizant of the facts, take any oath and make any entry which such owner, importer, or consignee might otherwise have taken or made.

86. No evidence of the value of any goods imported into Canada, or taken out of a warehouse for consumption therein, at the place whence and the time when they are so taken out, shall be deemed to have been exported to Canada, contradictory to or at variance with the value stated in the invoice produced to the collector, with the additions (if any) made to such value by the bill of entry, shall be received in any court in Canada.

87. Any oath required under the provisions of this act connected with the entry of goods may be made in Canada before the collector, subcollector, surveyor, or chief clerk at the port where the goods are entered, or if the person making such oath is not resident there, then before the collector or proper officer of some other port; and when such oath is required to be made out of the limits of Canada, it may be made at any place within the United Kingdom, or at any place in Her Majesty's possessions abroad, before the collector or before the mayor or other chief municipal officer of the place where the goods are shipped, or before a notary public, and at any other place before a British consul, or if there be no British consul, then before a foreign consul at such place.

88. The commissioner of customs or other person acting as deputy head of the department, and all officers holding under order in council the rank of chief clerk of the inside service in the said department, and all duly appointed inspectors of customs ports, shall, by virtue of their office, have full authority to administer all oaths and receive all affirmations and declarations required or authorized by this act, and the governor in council may, from time to time, by regulation, appoint or designate such other and additional persons, officers, or functionaries, as he sees fit, by name, or by their name of office, and in Canada or out of it, as those before whom such oaths may be validly taken, and may, by any order in council relax or dispense with the provisions of this act touching such oaths, in or with regard to goods transported by land or inland navigation, or to any other class of cases to be designated in such regulation.

89. No person other than the owner, consignee, or importer of the goods of which entry is to be made, shall be allowed to take any oath connected with the entry, unless there be attached to the bill of entry therein referred to, a declaration by the owner, consignee, or importer of the said goods or his attorney and agent duly appointed to transact business with the collector, pursuant to the provisions in that behalf of this act, to the same effect as the oath, distinctly referring to the invoice presented with such bill of entry, and signed by such owner, importer or consignee, or by his attorney and agent appointed as aforesaid, either in presence of the agent making the entry, who shall attest the signature, or of some justice of the peace or notary public, who shall attest the same.

90. Such declaration shall be kept by the collector; and if there be any willful false statement in such declaration, the goods shall be liable to seizure and forfeiture in the same manner and with the same effect as if such false statement were contained in the oath, and the person making such false statement shall be subject to the same penalties, forfeitures, and criminal punishments as if he had himself taken the oath and had made such false statement therein: but such written declaration may

be dispensed with under the order of the governor in council, where it may be deemed advisable, in the interest of commerce, to dispense therewith.

91. The governor in council may prescribe the forms of oaths required under this act. Such forms may from time to time be repealed or amended, and the forms of oaths authorized by statute or by the governor in council at the time of the passing of this act shall continue to be the authorized forms until altered or dispensed with by the governor in council.

92. If any person makes, or sends, or brings into Canada, or causes or authorizes the making, sending, or bringing into Canada of any invoice or paper, used or intended to be used as an invoice for customs purposes, wherein any goods are entered or charged at a less price or value than that actually charged, or intended to be charged for them, no price or sum of money shall be recoverable by such person, his assigns or representatives, for the price or on account of the purchase of such goods, or any part of them, or on any bill of exchange, note, or other security (unless in the hands of an innocent holder for value without notice), made, given, or executed for the price of or on account of the purchase of such goods, or any part of such price.

93. The production or proof of the existence of any other invoice, account, document or paper made or sent by any person, or by his authority, wherein goods or any of them are charged or entered at or mentioned as bearing a greater price than that set upon them in any such invoice as in the next preceding section mentioned shall be *prima facie* evidence that such invoice was intended to be fraudulently used for customs purposes; but such intention, or the actual fraudulent use of such invoice, may be proved by any other legal evidence.

94. Any importer of goods into Canada, or any person on his behalf, who shall present or cause to be presented, with intent to make entry thereunder, any false or fraudulent invoice, such as described in the two next preceding sections shall be subject to a penalty equal in amount to the value of the goods represented in such invoice, and the goods shall also be seized and forfeited.

95. The collectors of customs at all ports in Canada shall retain and put on file, after duly stamping the same, all invoices of goods imported at such ports respectively, of which invoices they shall give certified copies or extracts, whenever called upon so to do by the importers, and such copies or extracts so duly certified by the collector or other proper officer, and bearing the stamp of the custom-house at which they are filed, shall be considered and received as authentic, and the collector shall be entitled to demand for each certificate a fee of 50 cents before delivering the same, but in no case shall an invoice be shown to or a copy thereof given to any person other than the said importer, or an officer of customs, except upon the order or subpoena of a proper court.

96. Any appraiser, or any collector acting as such, or the persons to be selected as hereinafter mentioned to examine and appraise any goods, if the importer, owner, consignee, or agent is dissatisfied with the first appraisement, may call before him or them and examine upon oath any owner, importer, consignee, or other person, touching any matter or thing which such appraiser or collector deems material in ascertaining the true value of any goods imported, and may require the production on oath of any letters, accounts, invoices, or other papers or account-books in his possession relating to the same.

97. If any person called, as provided in the next preceding section, neglects or refuses to attend, or declines to answer, or refuses to answer in writing (if required) to any interrogatories, or to subscribe his name to his deposition or answer, or to produce any such papers or account-books, as provided by the next preceding section, when required so to do, he shall thereby incur a penalty of \$50; and if such person is the owner, importer, or consignee of the goods in question, the appraisement which the appraiser or collector acting as such shall make thereof shall be final and conclusive.

98. If any person willfully swears falsely in any such examination, and he is the owner, importer, or consignee of the goods in question, they shall be seized and forfeited; and all depositions or testimony in writing taken under either of the two next preceding sections shall be filed in the office of the collector at the place where the same are made or taken, there to remain for future use or reference.

99. If the importer, owner, consignee, or agent, having complied with the requirements of this act, is dissatisfied with the appraisement made, as aforesaid, of any such goods, he may forthwith give notice, in writing, to the collector, of such dissatisfaction, on the receipt of which notice the collector shall select two discreet and experienced persons, familiar with the character and value of the goods in question, to examine and appraise the same, agreeably to the foregoing provisions; and all invoices, entries, and other papers connected with the appraisement, and all evidence taken by or before the appraiser or collector of customs acting as such, and by or before the said persons, shall be transmitted without delay to the commissioner of customs, who, after due examination of the same, shall decide and determine the proper

within such time as may be mentioned in the bond, under the forfeiture of the penalty of such bond; provided, that the collector shall use due diligence in causing such examination to be made, and may, if he sees no objection, permit the remaining packages to be opened and unpacked as soon as those sent to the warehouse have been examined and approved.

112. The bond mentioned in the two next preceding sections may be a general bond covering the entries to be made by the importer for a period of twelve months from this date, and the penal sum shall be equal to the value of the largest importation made by the importer in question at any one time during the twelve months next immediately preceding; or if such importer has made no importations by which, in the opinion of the collector such penal sum can be properly fixed, the collector shall fix the amount thereof at such sum as he deems equitable.

113. The burden of proof that the proper duties payable with respect to any goods have been paid, and that all the requirements of this act with regard to the entry of any goods have been complied with and fulfilled, shall, in all cases, lie upon the party whose duty it was to comply with and fulfill the same.

114. The governor in council may, by regulation, direct that after any goods have been entered at the custom-house, and before the same are discharged by the officers and delivered into the custody of the importer or his agent, such goods shall be marked or stamped in such a manner or form as may be directed by such regulation for the security of the revenue, and by such officer as may be directed or appointed for that purpose.

115. When any person has occasion to remove from any port of entry to any other port or place, any goods duly entered, and on which the duties imposed by law have been paid, the collector or principal officer of the customs at such port on the requisition in writing of such person, within thirty days after the entry of such goods, specifying the particular goods to be removed, and the packages in which such goods are contained with their marks and numbers, shall give a permit or certificate in writing, signed by him, bearing date of the day it is made, and containing the like particulars, and certifying that such goods have been duly entered at such port and the duties paid thereon, and stating the port or place at which the same were paid, and the port or place to which it is intended to convey them, and the mode of conveyance, and the period within which they are intended to be so conveyed.

116. The warehousing ports already established and such ports of entry as the governor in council may from time to time appoint shall be warehousing ports.

117. The importer of any goods into Canada may enter the same for exportation, on giving security by his own bond with one sufficient security, for the exportation of the same goods, or may warehouse the same on giving such security by his own bond for the payment of the amount of all duties on such goods, and the performance of all the requirements of this act with regard to the same at such ports or places as aforesaid, and in such warehouses, and subject to such rules and regulations as may be from time to time appointed by the governor in council in that behalf, the penalty of the said bond to be double the amount of the duty to which such goods are subject.

118. During the regular warehouse hours, and subject to such regulations as the collector or proper officer of customs at any warehousing port sees fit to adopt, the owner of any warehoused goods may sort, pack, repack, or make any lawful arrangements respecting the goods warehoused, in order to the preservation or legal disposal thereof, and may take therefrom moderate samples, without present payment of duty or entry.

119. The owner of any warehoused goods may remove the goods under the authority of the collector or proper officer from any warehousing port to any other warehousing port in Canada, or from one warehouse to another in the same port, under good and sufficient bonds to the satisfaction of such officer.

120. Upon entry of goods at any frontier port or custom-house, under the authority and with the sanction of the collector or proper officer of customs at such port or custom-house, and under bonds to his satisfaction, and subject to such regulations as may be made in that behalf by the governor in council, the importer may pass the goods on to any port in any other part of Canada.

121. No transfer of the property in goods warehoused shall be valid for the purposes of this act unless the transfer be in writing signed by the importer or his duly authorized agent, or be made by process of law, and unless such transfer be produced to the collector or other proper officer of the proper port and be recorded by him in a book to be kept for that purpose in the custom-house. No such transfer of less than a whole package shall be valid, and no more than three transfers of the same goods shall be allowed before entry thereof for duty or for exportation.

122. Upon any such transfer of goods in warehouse being legally effected, as before provided, the proper officer may admit new security to be given by the bond of the new owner of the goods, and may cancel the bond given by the original owner of such goods, or may exonerate him to the extent of the new security so given; and

the new owner of any such goods shall then be deemed to be the importer thereof for the purposes of this act.

123. All warehoused goods shall be fully cleared, either for exportation or home consumption, within two years from the date of the first entry and warehousing thereof; and, in default thereof, the collector or proper officer may sell such goods for the payment, first, of the duties, and, secondly, of the warehouse rent and other charges; and the surplus, if any, shall be paid to the owner or his lawful agent; and the collector or proper officer may charge or authorize the occupier of the warehouse to charge a fair warehouse rent, subject to any regulation made by the governing council in that behalf.

124. The collector may, if he sees no reason to refuse such permission, permit an importer to abandon to the Crown any whole package or packages of warehoused goods, without being liable to pay any duty on the same; and the same shall then be sold and the proceeds shall belong to the Crown, provided, that if such goods cannot be sold for a sum sufficient to pay the duties and charges, such goods shall not be sold but shall be destroyed.

125. The governor in council may, by regulation, dispense with or provide for the canceling of bonds for the payment of duties on goods actually deposited in a customs warehouse, on such terms and conditions and in such cases as he thinks proper.

126. It shall not be lawful for any person to make, or any officer of customs to accept, any bond, note, or other document for the purpose of avoiding or deferring the actual payment of duties legally accruing on goods imported into Canada, nor to arrange for deferring payment of such duties in any way, unless such goods are entered for warehouse and only deposited therein according to the laws and regulations governing the warehousing of such goods.

127. Any collector or other officer of customs who shall allow the payment of duty of customs to be avoided or deferred for any cause or consideration whatever, except by regular entry for warehouse, shall be and become liable to forfeit a sum equal to the full value of such goods, and in addition thereto the amount of duty accruing thereon, which shall be recoverable from him or his sureties, or either of them, in the exchequer court or any court of competent jurisdiction in Canada; and any goods on which payment of duty may have been so avoided or deferred shall be liable to seizure and be dealt with as goods unlawfully imported into Canada.

128. If any goods entered to be warehoused are not duly carried into and deposited in the warehouse, or, having been so deposited, are afterwards taken out of the warehouse, without lawful permit, or, having been entered and cleared for exportation from the warehouse, are not duly carried and shipped, or otherwise conveyed out of Canada, or are afterwards relanded, sold, used, or brought into Canada, without the lawful permission of the proper officer of the customs, such goods shall be seized and forfeited.

129. All goods taken out of warehouse shall be subject to the duties to which they would be subject if then imported into Canada, and not to any other.

130. The importer of any cattle or swine may slaughter and cure and pack the same (or if such cattle or swine are imported in the carcass, may cure and pack the same) in bond; and the importer of any wheat, maize, or other grain, may grind and pack the same in bond, providing such slaughtering, curing, grinding, and packing be done and conducted under such regulations and restrictions as the governor in council may, from time to time, make for that purpose; but the said regulations shall not extend to the substitution of other beef, pork, flour, or meal for the produce of such imported cattle or swine, wheat, maize, or other grain.

131. The importer or owner of any sugar, molasses, or other material from which refined sugar can be produced, may refine the same in bond, provided such refining be done and conducted under such regulations and restrictions as the governor in council may, from time to time, make for that purpose.

132. Duties shall be payable in all cases on the quantity and value of goods in the warehouse, as ascertained and stated on first entry, or as originally warehoused.

133. The unshipping, carrying, and landing of all goods, and the taking of the same to and from a customs warehouse or proper place after landing, shall be done in such manner, and at such places, as shall be appointed by the collector or proper officer of customs.

134. Unless otherwise provided by the governor in council, warehouse rent and expenses of safe-keeping in warehouse, and all expenses connected with the unshipping, carrying, and landing of goods and the taking of the same to and from a customs warehouse or proper place after landing shall be borne by the importer. If any such goods be removed from the place so appointed without leave of such collector or proper officer, they shall be seized and forfeited.

135. The governor in council may, from time to time, make regulations for the warehousing of goods, either for consumption, removal, exportation, or ship's stores, in any quantity not less than a whole package as originally warehoused, unless the said goods be in bulk, and then in quantities not less than one ton in weight, except

when a less weight may be the balance remaining of the original entry thereof for warehouse.

136. If after any goods have been duly entered, or landed to be warehoused, or entered and examined to be rewarehoused, and before the same have been actually deposited in the warehouse, the importer further enters the same or any part for home use or for exportation as from the warehouse, the goods so entered shall be considered as warehoused or rewarehoused, as the case may be, although not actually deposited in the warehouse, and may be delivered and taken for home use or for exportation.

137. Upon the entry outwards of any goods to be exported from the customs warehouse, either by sea or by land, or inland navigation, as the case may be, the person entering the same shall give security by bond in double the duties of importation on such goods, and with a sufficient surety, to be approved by the collector or proper officer, that the same shall, when the entry afore said is by sea, be actually exported, and when the entry aforesaid is by land or inland navigation, shall be landed or delivered at the place for which they are entered outwards, or shall in either case be otherwise accounted for to the satisfaction of the collector or proper officer, and that such proof or certificate that such goods have been so exported, landed, or delivered, or otherwise legally disposed of, as the case may be, as shall be required by any regulation of the governor in council, shall be produced to the collector or proper officer within a period to be appointed in such bond; and if any such goods are not so exported or are fraudulently relanded in or brought into Canada, in contravention of this act and of the said bond, they shall be seized and forfeited, together with any vessel, boat, or vehicle in which they are so relanded or imported.

138. If within the period appointed by the said bond, there be produced to the proper collector or officer of customs the written certificate of some principal officer of customs or colonial revenue at the place to which the goods were exported, or if such place be a foreign country, of any British or foreign consul or vice-consul, residing there, stating that the goods were actually landed and left at some place (naming it) out of Canada, as provided by the said bond, such bond shall be canceled; in case it be proved to the satisfaction of the proper collector or officer of customs that the said goods have been lost, such bond may be canceled.

139. Any person making any entry outwards of goods from warehouse for exportation not being the owner or duly authorized by the owner thereof, or the master of the vessel by which they are to be shipped, shall, for each offense, forfeit \$200.

140. Warehoused goods may be delivered as ships' stores for any vessel of the burden of 50 tons or upwards, bound on a voyage to a port out of Canada, the probable duration of which voyage out and home will not be less than thirty days; also for any vessel bound for and engaged in the deep-sea fishing, proof being first made by affidavit of the master or owner, to the satisfaction of the proper officer, that the stores are necessary and intended for the purposes aforesaid; provided that the minister of customs may define and limit the kind, quantity, and class of goods which may be so delivered as ships' stores. Should such stores or any part thereof be relanded, sold, or disposed of in Canada without due entry and payment of duty, such stores shall be seized and forfeited and the vessel for which the same were delivered from warehouse shall be seized and forfeited.

141. The master of every vessel bound outwards from any port in Canada to any port or place out of Canada, or on any voyage to any place within or without the limits of Canada, coastwise or by inland navigation, shall deliver to the collector or other proper officer an entry outwards under his hand, of the destination of such vessel, stating her name, country, and tonnage, the port of registry, the name of the master, the country of the owners, and the number of the crew; and before any goods or ballast are taken on board such vessel the master shall show that all goods imported in her, except such as were reported for exportation in the same vessel, have been duly entered, except that the proper officer may issue a stiffening order that such goods or ballast as may be specified therein may be laden before the former cargo is discharged. And before such vessel departs the master shall bring and deliver to the collector or other proper officer a content in writing under his hand of the goods laden and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content as far as any of such particulars can be known to him.

142. The master of every vessel, whether in ballast or laden, shall, before departure, come before the collector or other proper officer, and answer all such questions concerning the vessel, and the cargo, if any, and the crew, and the voyage, as may be demanded of him by such officer, and, if required, shall make his answers or any of them part of the declaration made under his hand, as aforesaid; and thereupon the collector or other proper officer, if such vessel is laden, shall make out and give to the master a certificate of the clearance of such vessel for her intended voyage with merchandise or a certificate of her clearance in ballast, as the case may be; and if there be merchandise on board, and the vessel is bound to any port in Canada, such clearance

shall state whether any and which of the goods are the produce of Canada, and if the goods are such as are liable to duties, whether the duties thereon have been paid; and in such case the master shall hand the clearance to the collector at the next port in Canada at which he arrives immediately on his arrival.

143. If any vessel departs from any port or place in Canada without a clearance, or if the master delivers a false content, or does not truly answer the questions demanded of him, or if, having received a clearance, such vessel adds to her cargo, or takes another vessel in tow, or performs any work without having mentioned in the report outwards the intention so to do, the master shall forfeit the sum of \$400; and the vessel shall be detained in any port in Canada until the said penalty be paid.

144. The governor in council may, by regulation, dispense with any of the requirements of the two last preceding sections which he deems it inexpedient to enforce with regard to vessels engaged in the coasting trade or inland navigation.

145. Before a clearance is granted to any vessel bound to a port or place out of Canada, the owners, shippers, or consignors of the cargo on board such vessel shall deliver to the collector or proper officer of customs entries of such parts of the cargo as are shipped by them respectively, and shall verify the same by oath; and such entries shall specify the kinds and quantities of the articles shipped by them respectively, and the value of the total quantity of each kind of articles, and whether the said goods are of Canadian or of foreign production or manufacture; and such entries shall state that such entry contains a full, just, and true account of all articles laden on board of such vessel by such owners, shippers, or consignors respectively; and that the values of such articles are truly stated according to their actual cost or the value which they truly bear at the port and time of exportation; and in case the goods so shipped or any part thereof be liable by law to any export duty, the amount of such duty shall be stated in such entry; and no such entry shall be valid, and no clearance shall be granted to such vessel until such duty is paid to the collector or proper officer of customs.

146. The owners, shippers, or consignors of any goods consigned to a port or place out of Canada, to be transported by railway or other land conveyance, shall enter the same for exportation at the custom-house nearest to the place of lading; and such entry shall specify the kinds and quantities of the articles laden by them respectively, and the proper name and description of the railway over which such goods are to be transported, or of any other conveyance to be used for the same purpose; and shall verify the same by oath, and such oath shall be of the same form and tenor as that required from owners, shippers, or consignors of goods to be transported by sea; and if any of such goods are liable by law to any export duty, such duty shall be clearly stated upon such entry, and no railway car or other vehicle upon which such goods are laden shall be permitted to leave the limits of the port at which such entry should have been made until such duty is paid to the collector or proper officer of customs; and if any such car or vehicle be taken out of the limits of such port, contrary to the provision of this section, the company or person so taking the same shall be liable to a penalty of not more than \$400.

147. The owner, shipper, or consignor of any goods who shall refuse or neglect to make report and entry of the articles shipped or laden by them respectively, as required by the two last preceding sections, shall incur a penalty not exceeding \$300 for each such offence.

148. The governor in council may, by regulations to be, from time to time, made in that behalf, require such further information with regard to the description, quantity, quality, and value of goods exported from Canada, or removed from one port to another in Canada, to be given to the proper officer of the customs, in the entry of such goods outwards or otherwise, as he deems requisite for statistical purposes; whether such goods be exported or removed by sea, land, or inland navigation.

149. No entry outwards nor any shipping warrant or warrant for taking goods from a warehouse for exportation shall be deemed valid, unless the particulars of the goods and packages shall correspond with the particulars in the entry inwards, nor unless they shall have been properly described in the entry outwards, by the character, denomination, and circumstances under which they were originally charged with duty; and any goods laden or taken out of the warehouse by an entry outwards or shipping warrant not so corresponding or not properly describing them, shall be seized and forfeited.

150. If the owner of any goods be resident more than ten miles from the office of the collector at the port of shipment, he may appoint an agent to make his entry outwards and clear and ship his goods; but the name of the agent and the residence of the owner shall be subjoined to the name in the entry and shipping warrant; and the agent shall make the declaration on the entry which is required of the owner, and shall answer the questions that shall be put to him. Any trading corporation or company may appoint an agent for the like purpose.

151. The report for entry, inwards and outwards, required by this act, may, in the case of any steam vessel carrying a purser, be made by such purser with the like effect as if

and subject to the like penalty on the purser and the like forfeiture of the goods in case of any untrue report, as if the report were made by the master; and the word "master," for the purposes of this section, shall be construed as including the purser of any steam vessel; but nothing herein contained shall preclude the collector or proper officer of customs from calling upon the master of any steam vessel to answer all such questions concerning the vessel, passengers, cargo, and crew as might lawfully be demanded of him, if the report had been made by him, or to exempt the master from the penalties imposed by this act for failure to answer any such question, or for answering untruly, or to prevent the master from making such report if he shall see fit so to do.

12. If the collector of customs at any port is satisfied that in such port as the adjacent city or town and its vicinity, there does not exist an extraordinary infection, contagious, or epidemic disease, which could be transmitted by the vessel, her crew, or cargo, he may grant to any vessel requiring a bill of health a certificate, under his hand and seal, attesting the fact aforesaid, for which he shall be entitled to ask and receive a fee of one dollar.

13. If any person, with intent to defraud the revenue of Canada, smuggles or clandestinely introduces into Canada any goods subject to duty, or makes out or passes or attempts to pass through the custom-house any false, forged, or fraudulent invoice, or in any way attempts to defraud the revenue by evading the payment of duty, or of any part of the duty on any goods, such goods shall be seized and forfeited; and every such person, his aiders and abettors shall, in addition to any other penalty or forfeiture to which he and they may be subject for such offense, be deemed guilty of a misdemeanor, and on conviction shall be liable to a penalty of not less than \$50 and not more than \$200, or to imprisonment for a term of not less than one month and more than one year, or to both fine and imprisonment within the said limits, in the discretion of the court before whom the conviction is had.

14. If any person offers for sale any goods under pretense that the same are prohibited, or have been unshipped and run on shore, or brought in by land or otherwise without payment of duties, then and in such case all such goods (although not liable to any duties nor prohibited) shall be seized and forfeited, and every person offering the same for sale shall forfeit treble the value of such goods, or the penalty of \$200, at the election of the prosecutor, which penalty shall be recoverable in a summary way, before any one or more justices of the peace; and in default of payment on conviction, the party so offending shall be committed to any of Her Majesty's jails for a period not exceeding sixty days.

15. If any person knowingly harbors, keeps, conceals, purchases, sells or exchanges any goods illegally imported into Canada (whether such goods are dutiable or not), whereon the duties lawfully payable have not been paid, such person shall, for such offense, forfeit treble the value of the said goods, as well as the goods themselves.

16. If any two or more persons in company are found together, and they or any of them have any goods liable to forfeiture under this act, every such person having knowledge of the fact, shall be guilty of a misdemeanor, and punishable accordingly.

17. Any person who, by any means, procures or hires or induces any person or persons to be concerned in the landing or unshipping, or carrying or conveying any goods which are prohibited to be imported, or for the landing of which permission has not been granted by the collector or proper officer of customs, shall, for every person so procured or hired or induced, forfeit the sum of \$100.

18. If any warehoused goods are concealed in or unlawfully removed from any customs warehouse in Canada, such goods shall be seized and forfeited, and any person concealing or unlawfully removing any such goods or aiding or abetting such concealment or removal, shall incur the penalties imposed on persons illegally importing or smuggling goods into Canada, and on discovery of such concealment or removal all goods belonging to the importer or owner of the concealed or removed goods then remaining in the same or any other warehouse, shall be placed under detention until the duty payable on the goods so concealed or removed and all penalties incurred by him shall have been paid; and if such duties and penalties are not paid within one month after the discovery of the concealment or removal of such goods, the goods so detained shall be dealt with in the same manner as goods unlawfully imported or smuggled into Canada.

19. If the importer or owner of any warehoused goods, or any person in his employ, by any contrivance opens the warehouse in which the goods are or gains access to the goods except in the presence of or with the express permission of the proper officer of the customs, such importer or owner shall for every such offense forfeit the sum of \$100.

20. If any person by any contrivance gains access to bonded goods in a railway car, or to goods in a railway car upon which goods the customs duties have not been paid, or delivers such bonded or other goods without the express permission of the

proper officer of customs, such person shall for every such offense be liable to be imprisoned for any period not less than one month nor more than one year.

161. Any person wilfully altering, defacing, or obliterating any mark, placed by any officer of customs, on any package of warehoused goods, or goods in transit, shall, for every such offense, forfeit the sum of \$500.

162. All vessels with the guns, tackle, apparel, and furniture thereof, vehicles, harness, tackle, horses, and cattle made use of in the importation or unshipping or landing or removal of any goods liable to forfeiture under this act, shall be seized and forfeited; and every person assisting or otherwise concerned in importing, unshipping, landing, or removal, or in the harboring of such goods, or into whose hands or possession the same knowingly come, shall forfeit treble the value of such goods, or the penalty of \$200 at the election of the party suing for the same; and the averment in any information or libel exhibited for the recovery of such penalty, that such party has elected to sue for the same mentioned in the information or libel, shall be sufficient proof of such election, without any other evidence of the fact.

163. If any vessel is found hovering (in British waters) within one league of the coasts or shores of Canada, any officer of customs may go on board and enter into such vessels and stay on board such vessel while she remains within the limits of Canada or within one league thereof; and if any such vessel is bound elsewhere and so continues hovering for the space of twenty-four hours after the master has been required to depart by such officer of customs, such officer may bring the vessel into port and examine her cargo, and if any goods prohibited to be imported into Canada are on board, then such vessel with her apparel, rigging, tackle, furniture, stores, and cargo shall be seized and forfeited; and if the master or person in charge refuses to comply with the lawful directions of such officer or does not truly answer such questions as are put to him respecting such ship or vessel or her cargo, he shall forfeit and pay the sum of \$400.

164. Every person proved to have been on board any vessel or boat liable to forfeiture for having been found within one league of the coasts or shores of Canada, having on board or attached thereto or conveying or having conveyed anything subjecting such vessel or boat to forfeiture, or who shall be proved to have been on board any vessel or boat from which any part of the cargo shall have been thrown overboard or destroyed, or in which any goods shall have been unlawfully brought into Canada, shall forfeit \$100, provided such person shall have been knowingly concerned in such acts.

165. Officers of customs may board any vessel at any time or place and stay on board until all the goods intended to be unladen shall have been delivered; they shall have free access to every part of the vessel, with power to fasten down hatchways, the forecabin excepted, and to mark and secure any goods on board; and if any place, box or chest be locked, and the keys withheld, the officer may open the same. If any goods be found concealed on board they shall be seized and forfeited, and if any mark, lock, or seal upon any goods on board be wilfully altered, opened, or broken, before the delivery of the goods, or if any goods be secretly conveyed away, or if hatchways fastened down by the officer be opened by the master, or with his assent, the master shall forfeit \$400, and the vessel may be detained until the said fine be paid, or satisfactory security be given for the payment thereof.

166. The collector or other proper officer of the customs may station officers on board any ship while within the limits of a port, and the master shall provide every such officer with suitable accommodation and food, under a penalty of \$200.

167. If any person at any time forges or counterfeits any mark or brand to resemble any mark or brand provided or used for the purposes of this act, or forges or counterfeits the impression of any such mark or brand, or sells or exposes to sale, or has in his custody or possession, any goods with a counterfeit mark or brand, knowing the same to be counterfeit, or uses or affixes any such mark or brand to any other goods required to be stamped as aforesaid, other than those to which the same was originally affixed, such goods so falsely marked or branded shall be seized and forfeited, and every such offender, and his aiders, abettors or assistants, shall, for every such offense, forfeit and pay the sum of \$200, which penalty shall be recoverable in a summary way, before any two justices of the peace in Canada; and in default of payment the party so offending shall be committed to any of Her Majesty's jails in Canada, for a period not less than two months and not exceeding twelve months.

168. If any person counterfeits or falsifies, or uses when so counterfeited or falsified, any paper or document required under this act, or for any purpose therein mentioned whether written, printed, or otherwise, or by any false statement, procures such document, or forges or counterfeits any certificate relating to any oath, or declaration or affirmation hereby required or authorized, knowing the same to be so forged or counterfeited, such person shall be guilty of a misdemeanor, and being thereof convicted, shall be liable to be punished accordingly.

169. If any wilfully false oath, affirmation, or declaration be made in any case where, by this act, an oath, affirmation or declaration is required or authorized, the

party making the same shall be guilty of wilful and corrupt perjury, and liable to the punishment provided for that offense.

170. If any person required by this act or by any other law to answer questions put to him by any officer of the customs, refuses to answer or does not truly answer such questions, the person so refusing or not truly answering such questions, shall, in addition to the penalty or punishment to which he becomes subject, forfeit the sum of \$400.

171. Every officer and person employed under the authority of any act relating to the collection of the revenue, or under the direction of any officer in the customs department, or being an officer of the said department, shall be deemed and taken to be duly employed for the prevention of smuggling; and in any suit or information, the averment that such party was so duly employed shall be sufficient proof thereof.

172. Any such officer or person as mentioned in the next preceding section, and any sheriff or justice of the peace, or person residing more than 10 miles from the residence of any officer of customs and thereunto authorized by any collector of customs or justice of the peace, may, upon information, or upon reasonable grounds of suspicion, detain, open and examine any package suspected to contain prohibited property or smuggled goods, or goods respecting which there has been any violation of any of the requirements of this act, and may go on board of and enter into any vessel or vehicle of any description whatsoever, and may stop and detain the same, whether arriving from places beyond or within the limits of Canada, and may rummage and search all parts thereof, for such goods; and if any such goods are found in any such vessel or vehicle, the officer or person so employed may seize and secure such vessel or vehicle, together with all the sails, rigging, tackle, apparel, horses, harness, and all other appurtenances which, at the time of such seizure, belong to or are attached to such vessel or vehicle, with all goods and other things laden therein or thereon, and the same shall be seized and forfeited.

173. Any officer or person in the discharge of the duty of seizing goods, vessels, vehicles, or property liable to forfeiture under this act, may call in such lawful aid and assistance in the Queen's name, as may be necessary for securing and protecting such seized goods, vessels, vehicles, or property; and if no such prohibited, forfeited or smuggled goods are found, such officer or person, having had reasonable cause to suspect that prohibited, forfeited, or smuggled goods would be found therein, shall not be liable to any prosecution or action at law for any such search, detention or stoppage.

174. Every master or person in charge of any vessel, and every driver or person conducting or having charge of any vehicle or conveyance, refusing to stop when required to do so by an officer of customs, or person employed as such, in the Queen's name, and any person being present at any such seizure or stoppage, and being called upon in the Queen's name by such officer or person to aid and assist him in a lawful way, and refusing so to do, shall forfeit and pay the sum of \$200, which penalty shall be summarily recovered before any two justices of the peace in Canada, or before any judge or magistrate having the powers of two justices of the peace; and in default of payment the offender shall be committed to any jail in Canada, for a period not exceeding six months.

175. Any officer of customs having first made oath before a justice of the peace that he has reasonable cause to suspect that goods liable to forfeiture are in any particular building, or in any yard or other place, open or inclosed, may, with such assistance as may be necessary, enter therein at any time between sunrise and sunset, and if the doors are fastened, then admission shall be first demanded, and the purpose for which entry is required declared, when, if admission shall not be given, he may forcibly enter; and when in either case entry shall be made, the officer shall search the premises, and seize all goods subject to forfeiture; these acts may be done by an officer of customs without oath or the assistance of a justice of the peace, in places where no justice resides, or where no justice can be found within five miles at the time when such acts are done.

176. If any building be upon the boundary line between Canada and any foreign country and there is reason to believe that dutiable goods are deposited or have been deposited therein, or carried through or into the same, without payment of duties and violation of law, and if the collector or proper officer of customs makes oath before a justice of the peace that he has reason to believe as aforesaid, such collector or officer shall have the right to search such building and the premises belonging thereto, insofar as the same may be within the limits of Canada, and if any such goods be found therein the same shall be seized and forfeited; and any merchant or the person who shall have been guilty of a violation of the provisions of this section shall be punishable by a fine of not less than \$200 nor more than \$1,000.

177. Upon application by or on behalf of the attorney-general of Canada to the superior court of Canada, or any judge thereof in chambers, such court or judge shall grant a writ of assistance for such officer or officers of customs as may be named in the application. Such writ shall have force and effect over the whole of Canada,

186. If any person, under any pretence, either by actual assault, force, or violence, or by threats of such assault, force, or violence, in any way resists, opposes, molests, or obstructs any officer of customs, or any person acting in his aid or assistance, in the discharge of his or their duty, under the authority of this act, or any other law in force in Canada, relating to customs, trade, or navigation, or wilfully or maliciously shoots at or attempts to destroy or damage any vessel belonging to Her Majesty, or in the service of the Dominion of Canada, or maims or wounds any officer of the Army, Navy, marine, or customs, or any person acting in his aid or assistance while duly employed for the prevention of smuggling and in execution of his or their duty—or if, any person is found with any goods liable to seizure or forfeiture, under this act or any other law relating to customs, trade, or navigation, and carrying offensive arms or weapons, or in any way disguised, or staves, breaks, or in any way destroys any such goods, before or after the actual seizure thereof, or scuttles, sinks, or cuts adrift any vessel, or destroys or injures any vehicle or animal, before or after the seizure, or wilfully and maliciously destroys or injures, by fire or otherwise, any custom-house or any building whatsoever in which seized, forfeited, or bonded goods are deposited or kept, such person being convicted thereof, shall be adjudged guilty of felony, and shall be punishable accordingly.

187. If any officer of the customs, or any person who, with the concurrence of the minister of customs, is employed for the prevention of smuggling, makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize any vessel, boat, carriage, goods, or thing liable to forfeiture under this act, or takes or accepts a promise of any bribe, gratuity, recompense, or reward for the neglect or non-performance of his duty, such officer or other person shall be guilty of a misdemeanor, and, on conviction, forfeit for every such offense the sum of \$500, and be imprisoned for a period not less than three months nor more than two years, and be rendered incapable of serving Her Majesty in any office whatever; and every person who gives, or offers or promises to give, or procure to be given, any bribe, recompense, or reward to, or makes any collusive agreement with, any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to conceal or connive at any act whereby the provisions of this act, or any law relating to the customs, trade, or navigation, might be evaded, shall be guilty of a misdemeanor, and shall, on conviction, forfeit for every such offense the sum of \$500, and be imprisoned for a period not less than three months nor more than two years.

188. All penalties and forfeitures incurred under this act, or any other law relating to the customs or to trade or navigation, may, in addition to any other remedy provided by this act or by law, be prosecuted, sued for, and recovered, with full costs of suit, in the exchequer court of Canada, or in any superior court having jurisdiction in that province in Canada where the cause of prosecution arises, or wherein the defendant is served with process; and if the amount of any such penalty or forfeiture does not exceed \$200, the same may, in the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, British Columbia, Manitoba, and Prince Edward Island, respectively, also be prosecuted, sued for, and recovered in any county court or circuit court having jurisdiction in the place where the cause of prosecution arises, or where the defendant is served with process.

189. All penalties and forfeitures imposed by this act, or by any other act relating to the customs or to trade or navigation, shall, unless other provisions be made for the recovery thereof, be sued for, prosecuted, and recovered, with cost, by Her Majesty's Attorney General of Canada, or in the name or names of the commissioner of customs, or some officer or officers of the customs, or other person or persons thereunto authorized by the governor in council, either expressly or by general regulation or order, and by no other party.

190. All penalties and forfeitures imposed by this act, or by any other law relating to the customs or to trade or navigation, may, in the Province of Quebec, be sued for, prosecuted, and recovered, with full costs of the suit, by the same proceeding as any civil suits due to the Crown, and all suits or prosecutions for the recovery thereof shall, in that province, be heard and determined in like manner as other suits or prosecutions in the same court for moneys due to the Crown, except that in the circuit court the same shall be heard and determined in a summary manner; but nothing in this section shall affect any provisions of this act, except such only as relate to the form of proceeding and of trial in such suits or prosecutions as aforesaid.

191. Any prosecution or suit in the exchequer court of Canada, or in any superior court or circuit court of a province, for the recovery of any penalty or forfeiture imposed by this act, or by any other law relating to the customs or to trade or navigation, may be commenced, prosecuted, and proceeded with in accordance with any rules, general or special, established by the court for Crown suits in revenue matters, or in accordance with the usual practice and procedure of the court in civil causes in so far as such practice and procedure may be applicable, and wherever not applicable, then in accordance with the directions of the court or a judge in chambers.

The venue in any such prosecution or suit may be laid in any county in the province, notwithstanding that the cause of prosecution or suit did not arise in such county.

192. Any judge of the court in which any prosecution or suit is brought for the recovery of any penalty or forfeiture as aforesaid may, upon being satisfied by affidavit that there is reason to believe that the defendant will leave the province without satisfying such penalty or forfeiture, issue a warrant under his hand and seal for the arrest and detention of the defendant in the common jail of the county, district, or place until he has given security (before and to the satisfaction of such judge or some other judge of the same court) for the payment of such penalty, with costs, in case judgment be given against him.

193. In any declaration, information, statement of claim, or proceeding in any such prosecution or suit, it shall be sufficient to state the penalty or forfeiture incurred, and the act or section under which it is alleged to have been incurred, without further particulars; and the averment that the person seizing was and is an officer of the customs shall be sufficient evidence of the fact alleged unless it be contradicted by some superior officer of the customs.

194. In every prosecution, information, suit, or proceeding brought under this act for any penalty or forfeiture, or upon any bond given under it, or in any matter relating to the customs or to trade or navigation, Her Majesty, or those who sue for such penalty or forfeiture, or upon such bond, shall, if they recover the same, be entitled also to recover full costs of suit; and all such penalties and costs, if not paid, may be levied on the goods and chattels, lands and tenements of the defendant, in the same manner as sums recovered by judgment of the court in which the prosecution is brought may be levied by execution, or payment thereof may be enforced by *capias ad satisfaciendum* against the person of the defendant under the same conditions and in like manner.

195. If in any case the attorney-general is satisfied that the penalty or forfeiture was incurred without intended fraud, he may enter a *nolle prosequi* on such terms as he may see fit, and which shall be binding on all parties; the entry of such *nolle prosequi* shall be reported to the minister of customs, with the reasons therefor.

196. In any prosecution, suits or other proceeding for the recovery of any penalty or forfeiture as aforesaid, or for an offense against this act or any other law relating to the customs, or to trade or navigation, the averment that the cause of prosecution or suit arose, or that such offense was committed, within the limits of any district, county, port, or place shall be sufficient, without proof of such limits, unless the contrary is proved.

197. If any prosecution or suit is brought for any penalty or forfeiture under this act, or any other law relating to the customs or to trade or navigation, and any question arises whether the duties have been paid on any goods, whether the same have been lawfully imported, or lawfully laden or exported, or whether any other thing hath been done by which such penalty or forfeiture would be avoided, the burden of proof shall lie on the owner or claimant of the goods, and not on the party bringing such prosecution or suit.

198. All vessels, vehicles, goods, and other things seized as forfeited under this act, or any other law relating to customs, or to trade or navigation, shall be placed in the custody of the nearest collector and secured by him, or if seized by an officer in charge of a revenue vessel, shall be retained on board thereof until her arrival in port, and shall be deemed and taken to be condemned, without suit, information, or proceedings of any kind, and may be sold, unless the person from whom they were seized, or the owner thereof, or some person on his behalf, within one month from the day of seizure, do give notice in writing to the seizing officer or other chief officer of the customs at the nearest port that he claims or intends to claim the same; and the burden of proof that such notice was duly given in any case shall always lie upon the person claiming.

199. Notwithstanding that no such notice has been given, proceedings in the condemnation of the things seized may be commenced and prosecuted to judgment.

200. So soon as proceedings have been commenced in any court for the condemnation of anything seized, notice thereof shall be posted up in the office of the clerk, registrar, or prothonotary of the court, and also in the office of the collector at the port at which the thing has been seized as aforesaid; and if it be a vessel, shall also be posted on a mast thereof, or on some other conspicuous place on board.

201. Any person desiring to claim anything seized after proceedings for condemnation thereof have been commenced must file such claim in the office of the clerk, registrar, or prothonotary of the court; such claim must state the name, residence, and occupation or calling of the person making it, and must be accompanied by an affidavit of the claimant or his agent having a knowledge of the facts, setting forth the nature of the claimant's title to the thing seized.

202. Before any claim can be filed the claimant shall give security to the satisfaction of the court or a judge thereof by bond in a penalty of not less than \$200, or the equivalent of money not

of money not less than that sum, for the payment of the costs of the proceedings for condemnation.

203. If within one month after the last posting of the notice, under section 200, no claim to the thing seized be duly made, and security for costs given in accordance with the provisions of this act and of the practice of the court, judgment by default for the condemnation of the thing seized may, with the leave of the court or a judge thereof, be entered.

204. Any collector of customs may, as may also any court or judge having competent jurisdiction to try and determine the seizure, with the consent of the collector of the place where the things seized are, order the delivery thereof to the owner, on deposit with the collector in money of a sum at least equal to the full duty-paid value (to be determined by the collector) of the things seized and the estimated costs of the proceedings in the case; and any sum or sums of money so deposited shall be immediately deposited in some bank appointed for that purpose by competent authority, to the credit of the receiver-general of Canada, there to remain until forfeited in the course of law or released by order of the minister of customs; and in case such seized articles are condemned, the money deposited shall be forfeited.

205. If the thing seized be an animal or a perishable article, the collector at whose port the same is may sell the same so as to avoid the expense of keeping it or to prevent its becoming deteriorated in value. The proceeds of such sale shall be deposited in some chartered bank to the credit of the receiver-general of Canada, and shall abide the judgment of the court with respect to the condemnation of the thing seized, in case proceedings for condemnation be taken in court, or shall become the property of Her Majesty, in case the thing seized becomes condemned without proceedings in court; Provided always, that the collector shall deliver up such animal or perishable article to the claimant thereof upon such claimant depositing with him a sum of money sufficient in the opinion of the collector to represent the duty-paid value of the thing claimed and the costs of any proceedings to be taken in court for the condemnation of the thing seized. The money so deposited shall be paid into some chartered bank to the credit of the receiver-general of Canada, and shall be dealt with in the same manner as above provided for in the case of the proceeds of a sale of such thing.

206. If notice of intent to claim has been given, and the value of the goods or thing seized does not exceed \$100 and the prosecutor chooses to proceed under this section, he shall forthwith cause the goods to be valued by a competent appraiser, and if such appraiser certifies them to be under the said value, a summary information, in writing, may be exhibited in the name of the collector at or nearest to the place of seizure, or in the name of any officer authorized thereto by the minister of customs, before two justices of the peace, charging the articles seized as forfeited under some particular act and section thereof, to be therein referred to, and praying condemnation thereof; and the justices shall thereupon issue a general notice to all persons claiming interest in the seizure to appear at a certain time and place, there to claim the articles seized and answer the information, otherwise such articles shall be condemned; and a copy of the notice shall, at least eight days before the time of appearance, be served upon the person from whose possession the things were taken, or shall be left at or affixed to the building or vessel in which they were seized, if any, and if there remaining, or at two public places nearest the place of seizure; and if any person appears to answer the information, the justices shall hear and determine the matter in a summary manner and acquit or condemn the articles, but if no person appears, judgment of condemnation shall be given; and the justices, on condemnation, shall issue a warrant to the collector to sell the goods; and such two justices shall be deemed a court, and each of them to be a judge thereof, for the purposes of this act.

207. All prosecutions or suits for the recovery of any of the penalties or forfeitures imposed by this act, or any other law relating to the customs, may be commenced at any time within three years after the cause of prosecution or suit arose, but not after the end of the year; and the vessels, vehicles, goods, or things forfeited shall be liable to forfeiture during the same period.

208. An appeal shall lie from a conviction by any magistrate, judge, justice or justices of the peace under this act in the manner provided by law from convictions in cases of summary conviction in that province in which the conviction was had, on the appellant furnishing security, by bond or recognizance with two sureties, to the satisfaction of such magistrate, judge, justice or justices of the peace, to abide the event of such appeal.

209. And an appeal shall also lie from the exchequer court of Canada, the superior, district, and circuit courts, respectively, in cases where the amount of the penalty or fine is such that if a judgment for a like amount were given in any civil case an appeal would lie; and such appeal shall be allowed and prosecuted on like conditions as appeals to like provisions as other appeals from the same court in matters of like kind.

210. If the appeal be brought by Her Majesty's attorney-general, or a collector or officer of the customs, it shall not be necessary for him to give any security on such appeal.

211. In any case in which proceedings have been instituted in any court against any vessel, vehicle, goods, or thing, for the recovery of any penalty or forfeiture incurred by this act, or any law relating to the customs, trade, or navigation, the execution of any decision or judgment for restoring the thing to the claimant thereof shall be suspended by reason of any appeal from such decision or judgment, provided the claimant gives sufficient security, to be approved of by the court, or a judge thereof, to render and deliver the thing in question, or the value thereof, to the appellant, in case the decision or judgment so appealed from be reversed.

212. All sales of goods forfeited or otherwise liable to be sold under this act shall be by public auction, and after a reasonable public notice, and subject to such regulations as may be made by the governor in council; but in any case the minister of customs may order vessels, goods, vehicles, or things forfeited to be disposed of as he may see fit, instead of being sold by public auction.

213. The proceeds, after deducting expenses, shall, unless it be otherwise provided, belong to Her Majesty for the public uses of the Dominion; but the net proceeds, or any portion thereof, may be divided between and paid to the collector or chief officer of the customs at the port or place where the seizure was made, and the officer or officers by whom the seizure was made, or the information given which led to the seizure, and any person who has given information or otherwise aided in effecting the condemnation of the thing seized, in such proportions as the governor in council may in any case or class of cases direct and appoint; but nothing herein contained shall be construed to limit or affect any power vested in the governor in council or the minister of customs to make and ordain any other plan or system for the distribution of such net proceeds, or with regard to the remission of penalties or forfeitures imposed by this act or any other law.

214. When any goods have been seized or detained under any of the provisions of this act, or of any law relating to the customs, the importer or exporter thereof, and the owner or claimant thereof, shall immediately, upon being required so to do by the collector or other proper officer of customs of the port where the seizure or detention took place, produce and hand over all invoices, bills, accounts, and statements of the goods so seized or detained, and of all other goods imported into Canada by him at any time within three years next preceding such seizure or detention; and shall also produce for the inspection of such collector or other officer, and allow him to make copies of, or extracts from, all books of account, ledgers, day-books, cash-books, letter-books, invoice-books, or other books wherein any entry or memorandum appears respecting the purchase, importation, cost, value, or payment of the goods so seized or detained, and of all other goods as aforesaid.

215. If any person required under the next preceding section to produce and hand over invoices, bills, accounts, and statements, or to produce for inspection books of accounts, ledgers, day-books, cash-books, letter-books, invoice-books, and other books, or to allow copies or extracts to be made therefrom, neglects or refuses so to do, he shall incur a penalty of not less than \$200 nor more than \$1,000.

216. If in any prosecution, information, or suit respecting any seizure made under this act, or any law relating to the customs, decision or judgment be given for the claimant, and if the judge or court before whom the case has been tried or brought certifies that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution on account of such seizure; and if any action, indictment, or other suit or prosecution account of his making or being concerned in the making of such seizure, the plaintiff, if probable cause is certified as aforesaid, shall not be entitled to more than twenty cents damages nor to any costs, nor shall the defendant in such prosecution in such case be fined more than ten cents.

217. Goods claimed to be exempt from duty under any act relating to duties of customs shall, in the entry thereof, be described and set forth in the words by which they are described to be free in the act or schedule; and goods not answering such description shall be seized and forfeited; or if the collector deems it expedient, he may detain the goods and report the case for the action of the commissioner of customs and the decision of the minister of customs, as provided in this act.

218. When any vessel, vehicle, goods, or thing has been seized or detained under any of the provisions of this act or of any law relating to the customs, or when it is alleged that any penalty or forfeiture has been incurred under the provisions of this act, or of any law relating to the customs, the collector or the proper officer shall forthwith report the circumstances of the case to the commissioner of customs.

219. The commissioner may thereupon notify the owner or claimant of the thing seized or detained, or his agent, or the person alleged to have incurred the penalty of forfeiture, or his agent, of the reasons for the seizure, detention, penalty, or forfeiture, and call upon him to furnish, within thirty days from the date of the notice, such evidence as may be required.

vidence in the matter as he may desire to furnish. Such evidence may be by affidavit or affirmation, made before any justice of the peace, any collector of customs, any commissioner for taking affidavits in any court, or any notary public.

220. After the expiration of the said thirty days, or sooner if the person so called upon to furnish evidence so desires, the commissioner may consider and weigh the circumstances of the case, and report his opinion and recommendation thereon to the minister of customs.

221. The minister may thereupon give his decision in the matter, respecting the seizure, detention, penalty, or forfeiture, and the terms (if any) upon which the thing seized or detained may be released, or the penalty or forfeiture remitted; and if the owner or claimant of the thing seized or detained, or the person alleged to have incurred the penalty, signifies in writing, by himself or his agent, his acceptance of the decision, he shall be bound thereby, and the terms thereof may be enforced and carried out, and in any action, suit or proceeding to recover any money claimed by virtue of such decision the person accepting the same shall not be at liberty to set up that the thing seized was not liable to seizure or detention, or that he had not incurred any penalty or forfeiture.

222. But if the said owner, or claimant, or person, or his agent, within twenty days after having been notified of the decision, gives to the minister of customs notice in writing that such decision will not be accepted, or if such twenty days elapse without such decision being accepted, proceedings for the condemnation of the thing seized or for the enforcement of the penalty or forfeiture may be taken without delay.

223. If the said decision be accepted as by this act provided, and if the terms thereof be not forthwith complied with, the minister of customs may elect either to enforce the terms of the decision or to take proceedings for the condemnation of the thing seized, or for the enforcement of the penalty or forfeiture.

224. If a term of the decision be that the thing seized or detained be released upon payment of a sum of money, and if such money be not paid forthwith after acceptance of the decision, and if the minister elects to enforce the decision, such thing may be sold and the net proceeds applied towards payment of such sum, the balance (if any) to be handed over to the person entitled thereto. If such net proceeds be not sufficient to pay such sum the person accepting the decision shall be liable to pay the amount of the deficiency, and the same may be recovered from him as a debt due to Her Majesty.

225. If after acceptance of the decision, the person required thereby to pay any sum of money as a penalty or forfeiture, does not forthwith pay the same, the amount thereof may be recovered from him as a debt due to Her Majesty.

226. No action, suit, or proceeding shall be commenced, no writ shall be sued out against, nor a copy of any process served upon any officer of the customs or person employed for the prevention of smuggling as aforesaid, or upon any officer of customs for anything done in the exercise of his office, until one month after notice in writing has been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of any cause of such action shall be produced except of such as is contained in such notice, and no verdict or judgment shall be given for the plaintiff, unless he proves on the trial that such notice was given; and, in default of such proof, the defendant shall receive a verdict, or judgment and costs.

227. Any such officer or person against whom any action, suit, or proceeding is brought on account of anything done in the exercise of his office, may, within one month after such notice, tender amends to the party complaining, or his agent, and plead such tender in bar to the action, together with other pleas; and if the court or jury (as the case may be) find the amends sufficient, judgment or verdict shall be given for the defendant, and in such case, or in case the plaintiff becomes non-suited, or discontinues his action, or judgment is given for the defendant upon demurrer or otherwise, then such defendant shall be entitled to full costs of defense; the defendant, by leave of the court in which the action is brought, may, at any time before issue joined, pay money into court as in other actions.

228. Every such action, suit, or proceeding must be brought within three months after the cause thereof, and laid and tried in the place or district where the facts were omitted; and the defendant may plead the general issue and give the special matter in evidence; and if the plaintiff becomes non-suited or discontinues the action, or if upon a demurrer or otherwise judgment is given against the plaintiff the defendant shall recover full costs of defense.

229. If in any such action, suit, or proceeding, the court or judge before whom the action is tried certifies upon the record that the defendant in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than costs damages nor to any costs of suit, nor in case of a seizure shall the person who



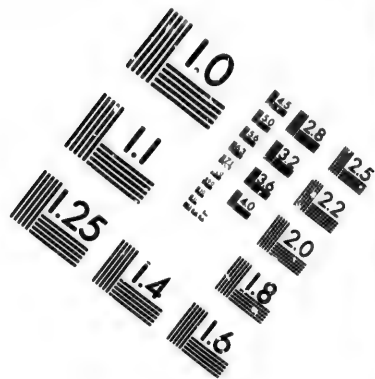
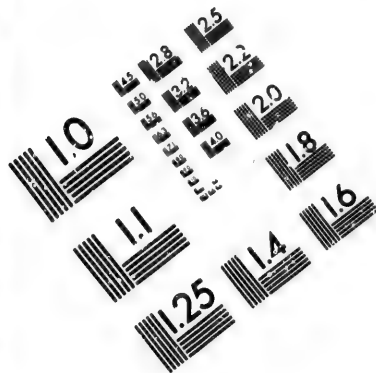


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made the seizure be liable to any civil or criminal suit or proceeding on account thereof.

230. In addition to the purposes and matters hereinbefore or hereinafter mentioned, the governor in council may from time to time, and in the manner hereinafter provided, make regulations for or relating to the following purposes and matters:

(1) For the warehousing and bonding of such cattle and swine as may be slaughtered and cured in bond, and of such wheat, maize, and other grain as may be ground and packed in bond, and of such sugar as may be refined in bond.

(2) For the branding and marking of all duty-paid goods and goods entered for exportation, and for regulating and declaring what allowances shall be made for tare on the gross weight of goods.

(3) For declaring what shall be coasting trade, or inland navigation, respectively, and how the same shall be regulated in any case or classes of cases, and for relaxing or dispensing with any of the requirements of this act, as to vessels engaged in such trade, on any conditions which he may see fit to impose.

(4) For appointing places and ports of entry, and warehousing and bonding ports, and respecting goods and vessels passing the canals, and respecting the horses, vehicles and personal baggage of travelers coming into Canada, or returning therefrom, or passing through any portion thereof.

(5) For regulating or restricting the importation of spirits, wine, and malt liquors, or other goods requiring to be weighed, gauged, or tested for strength or quantity, and limiting or prescribing the kind and capacity of packages in which the same may be imported, and the conveyances by which and the ports or places at which the same may be landed and entered.

(6) For exempting from duty any flour or meal or other produce of any wheat or grain grown in and taken out of Canada into the United States to be ground, and brought back into Canada within two days after such wheat or grain has been so taken out to be ground, or any boards, planks, or scantling, the produce of any logs or timber grown in and taken out of Canada into the United States to be sawn, and brought back into Canada within seven days after such logs or timber were so taken out to be sawn.

(7) For regulating the quantity to be so taken out or brought in at any one time by any party, and the mode in which the claim to exemption shall be established and proved.

(8) For authorizing the appointment of warehouses, and regulating the security which shall be taken from warehouse keepers, the forms and conditions subject to which goods are to be warehoused, the mode of keeping goods in warehouse, and of removing such goods therefrom, and the amount of warehouse rent or license fees.

(9) For extending either by general regulation or by special order, the time for clearing warehoused goods, and for the transport of goods in bond from one port or place to another.

(10) For regulating the form in which transfers of goods in warehouse or bond from one party to another shall be entered.

(11) For exempting goods from duty as being the growth, produce, or manufactures of Newfoundland, if such exemption be provided for by any act relating to Customs, and for regulating the mode of proving such exemption.

(12) For transferring to the list of goods which may be imported into Canada free of duty, any or all articles (whether natural products or products of manufactures) used as materials in Canadian manufactures, and any such materials transferred to the free list by such order in council, shall be free of duty of customs for the time therein appointed for that purpose; and for granting a drawback of the whole or part of the duty paid on articles which may have been used in Canadian manufactures; or for granting a certain specific sum in lieu of any such drawback.

(13) For appointing the manner in which the proceeds of penalties and forfeitures shall be distributed.

(14) For authorizing the taking of such bonds and security as he deems advisable for the performance of any condition on which any remission or part remission of duty, indulgence or permission is granted to any party, or any other condition made with such party, in the matter relating to the customs or to trade or navigation; and such bonds, and all bonds taken with the sanction of the minister of customs expressed either by general regulation or by special order, shall be valid in law, and upon breach of any of the conditions thereof, may be sued and proceeded upon in like manner as any other bond entered into under this act or any other law relating to the customs.

(15) For any other purpose for which by this act, or any other law relating to the customs or to trade and navigation, the governor in council is empowered to make orders or regulations; it being hereby declared competent for him (if he deems it expedient) to make general regulations in any matter in which he may make a special order, and any such general regulation shall apply to each particular case within the extent and meaning thereof, as fully and effectively as if the same referred directly

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231. And whereas it frequently happens that goods are conveyed, directly through the Canadian canals or otherwise by land or inland navigation, from one part of the frontier line between the Dominion of Canada and the United States to another, without any intention of unloading such goods in Canada, and that travelers in like manner pass through a portion of Canada, or come into it, with their carriages, horses, or other carriages drawing the same, and personal baggage, with the intention of forthwith returning to the United States, or having gone to the United States from Canada, return to it with such articles, and though the bringing of such goods and other articles into Canada is strictly an importation thereof, it may nevertheless be inexpedient that duties should be levied thereon; with regard to all such cases as aforesaid, the governor in council may, from time to time, and as occasion may require, make such regulations as to him seem meet, and may direct under what circumstances such duty shall be or shall not be paid, and on what conditions it shall be remitted or returned, and may cause such bonds or other security to be given, or such precautions to be taken at the expense of the importer (whether by placing officers of the customs on board any such vessel or carriage or otherwise) as to him seem meet; and on the refusal of the importer to comply with the regulations to be so made, the duty on the goods so imported shall forthwith become payable; and all and every animal, vehicle, or goods of any kind, brought into Canada by any traveler, exempted from duty under such regulations or otherwise, shall, if sold or offered for sale in Canada, provided the duties thereon have not been previously paid, be held to have been illegally imported, and shall be seized and forfeited, together with the harness or tackle employed therewith or in the conveyance thereof.

232. In any regulation made by the governor in council, under this act, any oath or declaration may be prescribed and required which the governor in council deems necessary to protect the revenue against fraud, and any person or officer may be authorized to administer the same; and by any such regulation, a declaration may be substituted for an oath in any case where an oath is required by this act.

233. The governor in council may by proclamation or order in council, at any time, and from time to time, prohibit the exportation or the carrying coastwise or by inland navigation of the following goods: Arms, ammunition, and gunpowder, military and naval stores, and any articles which the governor in council shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions, or any sort of victual which may be used as food by man; and, if any goods so prohibited be exported, carried coastwise, or by inland navigation, or waterborne, or laden in any railway carriage, or other vehicle, for the purpose of being so exported or carried, they shall be seized and forfeited.

234. The governor in council may grant yearly coasting licenses to British vessels navigating the inland waters of Canada above Montreal, and may direct that a fee of fifty cents shall be payable for each such license, and that the master or person in charge of any vessel navigating the said waters, and not having a coasting license, shall, on entering any port in the Dominion with such vessel, pay a fee of fifty cents if such vessel is not over fifty tons burthen, and of one dollar if she is more than fifty tons burthen, to the collector on each entry, and a like fee of fifty cents, or one dollar, according to the burthen of the vessel, on each clearance of such vessel at any port; and such fees shall be payable accordingly before such vessel shall be entered or cleared; provided that the governor in council may reduce or readjust such fees, but may not increase them; and provided also, that vessels merely passing through any of the Canadian canals, without breaking bulk, shall not be liable to such fees.

235. All goods shipped or unshipped, imported or exported, carried or conveyed contrary to any regulation made by the governor in council, and all goods or vehicles and all vessels under the value of \$400, with regard to which the requirements of any such regulations have not been complied with, shall be seized and forfeited, and if such vessel be of or over the value of \$400, the master thereof shall, by such non-compliance, incur a penalty of \$100, and the vessel may be detained until the said penalty is paid, or satisfactory security is given for the payment thereof; and any such forfeitures and penalties shall be recoverable and may be enforced in the same manner, before the same court and tribunal, as if incurred by the contravention of any direct provision of this act.

236. All general regulations made by the governor in council under this act, shall have effect from and after the day on which the same have been published in the Canada Gazette, or from and after such later day as may be appointed for the purpose in such regulations, and during such time as shall be therein expressed, or if no time be expressed for that purpose, then until the same are revoked or altered; and all such regulations may be revoked, varied, or altered by any subsequent regulation; and a copy of the Canada Gazette containing any such regulation shall be evidence of such regulation to all intents and purposes whatsoever.

237. Any copy of an order of the governor in council made in any special matter, and not being a general regulation, certified as a true copy by the clerk or assistant clerk of the Queens privy council for Canada, shall be evidence of such order to all intents and purposes whatsoever.

238. In every case where the person required to take any oath under any act or regulation relating to the customs, is one of the persons entitled by law to take a solemn affirmation instead of an oath in civil cases, such person may instead of the oath hereby required make a solemn affirmation to the same effect; and every person before whom any oath is, by any such act or regulation, required or allowed to be taken, or solemn affirmation to be made, shall have full power to administer the same; and the wilfully making any false statement in any such oath shall be perjury, and the wilfully making any false statement in such solemn affirmation shall be a misdemeanor punishable as perjury.

239. Whenever on the levying of any duty, or for any other purpose, it becomes necessary to determine the precise time of the importation or exportation of any goods, or of the arrival or departure of any vessel, such importation, if made by sea, coastwise, or by inland navigation in any decked vessel, shall be deemed to have been completed from the time the vessel in which such goods were imported came within the limits of the port at which they ought to be reported, and, if made by land or by inland navigation in any undecked vessel, then from the time such goods were brought within the limits of Canada; and the exportation of any goods shall be deemed to have been commenced from the time of the legal shipment of such goods for exportation, after due entry outwards, in any decked vessel, or from the time the goods were carried beyond the limits of Canada, if the exportation be by land or in any undecked vessel; and the time of the arrival of any vessel shall be deemed to be the time at which the report of such vessel was, is, or ought to have been made, and the time of the departure of any vessel to be the time of the last clearance of such vessel on the voyage for which she departed.

240. Although any duty of customs has been overpaid, or although after any duty of customs has been charged and paid, it appears or is judicially established that the same was charged under an erroneous construction of the law, no such overcharge shall be returned after the expiration of three years from the date of such payment, unless application for repayment has been previously made.

241. No refund of duty shall be allowed after the lapse of fourteen days from the time of entry, for any alleged misdescription of goods by the importer; and should any error of the kind be discovered by the importer while unpacking his goods, he shall immediately and without further interference with the goods, report the facts to the collector, in order that the same may be verified.

242. The governor in council may, under regulations to be made for that purpose, allow, on the exportation of goods which have been imported into Canada, and on which a duty of customs has been paid, a drawback equal to the duty so paid, with such deduction therefrom as may be provided in such regulations; and in cases to be mentioned in such regulations and subject to such provisions as may be therein made, such drawback or a specific sum in lieu thereof, may be allowed on duty-paid goods manufactured or wrought in Canada into goods exported there from as aforesaid; and the period within which such drawback may be allowed after the time the duty was paid shall be limited in such regulations.

243. All bonds and securities of what kind and nature soever authorized to be taken by any law relating to customs, trade, or navigation shall be taken to and for the use and benefit of Her Majesty, and such bonds shall be taken before the performance of any act or matter with regard to which the taking of any such bond or bonds is required.

244. All bonds, documents, and papers necessary for the transaction of any business at the respective custom houses or places or ports of entry in Canada, shall be in such form as the minister of customs shall from time to time direct.

245. Certificates and copies of official papers, certified under the hand and seal of any of the principal officers of the customs in the United Kingdom, or of any collector of colonial revenue in any of the British possessions in America or the West Indies, or other British possessions, or of any British consul or vice-consul in a foreign country, and certificates and copies of official papers made pursuant to this act or any act in force in Canada relating to the customs or revenue, shall be received as presumptive evidence in reference to any matter contained in this act or any act relating to the customs or on the trial of any suit in reference to any such matter.

246. Whenever any person makes any application to an officer of the customs to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf the application is made, and in default of the production of such authority, may refuse to transact such business; and any act or thing done or performed by such agent shall be binding upon the person by or on behalf of whom the same is done or per-

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247. Any attorney and agent duly thereunto authorized by a written instrument, which he shall deliver to and leave with the collector, may, in his said quality, validly make any entry, or execute any bond or other instrument required by this act, and shall thereby bind his principal as effectually as if such principal had himself made such entry or executed such bond or other instrument, and may take the oath hereby required of a consignee or agent, if he be cognizant of the facts therein averred; and any instrument appointing such attorney and agent shall be valid if in the form prescribed by the minister of customs.

248. Any partner in an incorporated company, association, or copartnership of persons, or their attorney and agent authorized as aforesaid, may, under the name and style usually taken by such company, association, or copartnership, make any entry or execute any bond or other instrument required by this act, without mentioning the name or names of any of the members or of the other members of the company or association or partnership, and such entry, bond, or instrument shall nevertheless bind them as fully and effectually, and shall have the same effect in all respects as if the name of every such member or partner had been therein mentioned and he had signed the same, and (if it be a bond or other instrument under seal) as if he had thereunto affixed his seal and had delivered the same as his act and deed; and the seal thereunto affixed shall be held to be the seal of each and every such member or partner as aforesaid; and the provisions of this section shall apply to any instrument by which any company, association, or partnership of persons appoint an attorney or agent to act for them under the next preceding section. The person who, under this section, makes any entry or executes any bond or instrument on behalf of any company, association, or partnership, shall, under the name and style usually taken by them, write his own name with the word "by" or the words "by their attorney," or words to the like effect, as the case may be, thereunto γ refixed.

SCHEDULE.—Acts repealed subject to the provisions made in section 3 of this act.

1. The act passed in the fortieth year of Her Majesty's reign, chaptered ten, and entitled "An act to amend and consolidate the acts respecting the customs."
2. The act passed in the forty-fourth year of Her Majesty's reign, chaptered eleven, and entitled "An act to amend the act, fortieth Victoria, chapter ten, entitled 'An act to amend and consolidate the acts respecting the customs.'"

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No. 55.

Sir L. West to Mr. Bayard.

WASHINGTON, December 7, 1886.

SIR: With reference to your note of the 30th of July last, I am instructed by the Earl of Idlesleigh to communicate to you the inclosed copy of a dispatch, with its inclosures, from the officer administering the government of Canada, respecting the action of the customs officer at Magdalen Islands, in the case of the United States fishing vessel Mascotte.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1 in No. 55.]

Acting Governor Lord A. G. Russell to Mr. Stanhope.

HALIFAX, NOVA SCOTIA, October 30, 1886.

SIR: With reference to your telegraphic message of the 22d August, and to your dispatch of the 25th of August, marked Secret, transmitting copy of a dispatch from Her Majesty's chargé d'affaires at Washington, with a note from Mr. Bayard, complaining of the action of the customs officer at Magdalen Islands with reference to the American fishery schooner Mascotte. I have the honor to forward herewith a copy of an approved minute of the privy council of Canada, embodying a report of the minister of marine and fisheries on the subject.

I have, &c.,

A. G. RUSSELL,
General.

[Inclosure 2 in No. 55.]

Report of a committee of the honorable the privy council, approved by his excellency the administrator of the Government in council for Canada on the 30th day of October, 1888.

The committee of the privy council have had under consideration a telegram of the 22d August and a dispatch of the 25th August last, from the right honorable the secretary of state for the colonies, transmitting copy of a letter from Her Majesty's minister at Washington, inclosing a note from Mr. Secretary Bayard, complaining of the action of the customs officer at Magdalen Islands, with reference to the American fishing schooner Mascotte.

The minister of marine and fisheries, to whom the correspondence was referred, observes that Mr. Bayard, in his note to the British minister at Washington, says:

"I am also in possession of the affidavit of Alex. T. Vachem,* master of the American fishing schooner Mascotte, who entered Port Amherst, Magdalen Islands, and was there threatened by the customs official with seizure of his vessel if he attempted to obtain bait for fishing or take a pilot."

And from a report of the customs officer at Magdalen Islands, a copy of which, so far as it relates to the case in point, is hereto annexed, it appears that no grounds exist for the complaint made by the master of the Mascotte.

The minister states that Captain Vachem [McEachern] was served with a printed copy of the "warning," and was, in addition, informed by the collector that under the treaty of 1818 he had no right to buy bait or to ship men. He was not forbidden to take fish, but, on the contrary, the collector pointed out to him on the chart the places in which, by the convention of 1818, he, as a United States fisherman, had the right to inshore fishing, and one of the places so pointed out to him was the Magdalen Islands.

Notwithstanding the "warning" and the personal explanation of the collector, it appears that Captain Vachem [McEachern] did go up the country and attempt to hire men, and upon his return informed the collector that he could not get any. For this, clearly an illegal act, he was not interfered with by the collector.

The minister further observes that the convention of 1818, while it grants to United States fishermen the right of fishing in common with British subjects on the shores of the Magdalen Islands, does not confer upon them privileges of trading or of shipping men, and it was against possible acts of the latter kind, and not against fishing inshore, or seeking the rights of hospitality guaranteed under the treaty, that Captain Vachem [McEachern] was warned by the collector.

With reference to the remarks of the colonial secretary that "Her Majesty's Government would recommend that special instructions should be issued to the authorities at the places where the inshore fisheries has been granted by the convention of 1818 to the United States fishermen, calling their attention to the provisions of that convention, and warning them that no action contrary thereto may be taken in regard to United States fishing vessels," the minister states that the circular instructions issued to collectors of customs recite the articles of the convention of 1818, which grant to United States fishermen the right to take fish upon the shore of the Magdalen Islands, and of certain parts of the coasts of Labrador and Newfoundland, which instructions the collector in question had received, and the import of which his report shows him to be familiar with.

In addition to this, the commander of the fishery protection steamer *La Canadienne* was ordered to visit Magdalen Islands, and explain fully to collectors there the extent of their powers.

The minister, in view of these instructions, printed and oral, does not deem it necessary to send further special orders.

The committee, concurring in the foregoing report, advise that your excellency be moved to transmit a copy hereof, if approved, to the right honorable the secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 55.]

Mr. Poinchaud to the Minister of Marine and Fisheries.

CUSTOM-HOUSE, MAGDALEN ISLANDS,
August 26, 1888.

SIR: I beg to acknowledge the receipt of your telegram respecting captain of the schooner Mascotte's report in reference to my having threatened him with seizure. I replied, on receipt: "Mascotte information incorrect. Particulars per mail Tuesday."

* So in the British copy. The master's name is Alex. McEachern. (See Doc. No. 66, page 167.)

Particulars: On arrival of the captain I served him a "warning" personally; informed him he could not buy (?) bait] or ship men.

I say this to all American fishermen. He tried, however, to hire; went up the country to hire, but could not hire a man.

I saw him and men go up, and on his return he told me he could not hire. I did not oppose him. He attended halibutting at Seven Islands, Dominion. I found this out since. I deny having said I would seize him if he obtained bait, himself or crew. I did not use the term, but it suits the captain or owners to use it, as it serves their meaning to make the report good.

I particularly showed him where, on the chart, he had the right to fish inshore, to wit, at the Magdalen Islands, Cape Ray, &c., as per treaty in my hands then.

I think I was very lenient with him and all American fishermen calling here, knowing their privileges.

I treated them so gentlemanly that I am surprised to hear he made the above inaccurate report to you.

Yours, &c.,

J. B. F. POINCHAUD,
Collector of Customs.

No 56.

Sir L. West to Mr. Bayard.

WASHINGTON, December 7, 1886.

SIR: With reference to your notes of the 9th and 18th of August last, I am instructed by the Earl of Iddesleigh to communicate to you the enclosed copy of a dispatch from the governor-general of Canada, with its inclosures, relative to the causes of complaint alleged by the masters of the United States fishing vessels Rattler, Shiloh, and Julia Ellen against Captain Quigley, of the Canadian cruiser Terror.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1 in No. 56.]

Acting Governor Lorà A. G. Russell to Mr. Stanhope.

HALIFAX, NOVA SCOTIA, October 29, 1886.

SIR: I have the honor to forward herewith a copy of an approved minute of the privy council of Canada, furnishing the report asked for in your dispatch of the 1st September last, respecting the alleged unfriendly treatment of the United States fishing schooner Rattler in being required to report to the collector of customs at Shelburne, Nova Scotia, when seeking that harbor for shelter.

I beg also to draw your attention to the statement of the captain of the Terror, appended to the above order in council, which gives the facts concerning the cases of the Shiloh and Julia Ellen, a report as to which was requested in your dispatch of the 9th ultimo.

I have, &c.,

A. G. RUSSELL,
General.

[Inclosure 2 in No. 56.]

Report of a committee of the honorable the privy council for Canada, approved by his excellency the administrator of the Government in council on the 28th day of October, 1886.

The committee of the privy council have had their attention called by a cablegram from the right honorable Mr. Stanhope as to when he may expect answer to dispatch Rattler. The honorable Mr. Bowell, for the minister of marine and fisheries, to whom the papers were referred, submits, for the information of his excellency in

by his excellency the day of October, 1886.

tion a telegram of the right honorable the second Her Majesty's mind, complaining of the presence to the American

ence was referred, ob- Washington, says: "master of the American Magdalen Islands, and vessel if he attempted

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steamer La Canadienne collectors there the ex-

oral, does not deem it

that your excellency be- onorable the secretary

proval. JOHN J. MCGEE, Clerk, Privy Council.

sheries.

DALEN ISLANDS, August 28, 1886.

pecting captain of the ed him with seizure. Particulars per mail Tues-

Doc. No. 66, page 147.)

council, that having considered the statements, copies of which are annexed, of Captain Quigley, of the Government cutter Terror, and of the collector of customs at Shelburne, with reference to the subject-matter of the dispatch, he is of opinion that these officers only performed their respective duties in the case of the Rattler, and that no just grounds exist for the complaint put forward in Mr. Bayard's dispatch of a violation of that hospitality which all civilized nations prescribe, or of a gross infraction of treaty stipulations.

The minister states that it does not appear at all certain, from the statements submitted, that this vessel put into Shelburne for a harbor in consequence of stress of weather. It does, however, appear that immediately upon the Rattler coming into port, Captain Quigley sent his chief officer to inform the captain of the Rattler that before sailing he must report his vessel at the custom-house, and left on board the Rattler a guard of two men to see that no supplies were landed or taken on board, or men allowed to leave the vessel during her stay in Shelburne Harbor. That at midnight the guard fired a shot as a signal to the cruiser, and the first officer at once again proceeded to the Rattler, and found the sails being hoisted and the anchor weighed preparatory to leaving port. The captain being informed he must comply with the customs regulations and report his vessel, headed her up the harbor. That on the way up she became becalmed, when the first officer of the Terror took the captain of the Rattler in his boat and rowed him to the town, where the collector of customs received his report at the unusual hour of 6 a. m. rather than detain him, and the captain with his vessel proceeded to sea.

The minister observes that under section 25 of the customs act every vessel entering a port in Canada is required to immediately report at the customs, and the strict enforcement of this regulation as regards the United States fishing vessels has become a necessity in view of the illegal trade transactions carried on by the United States fishing vessels when entering Canadian ports under pretext of their treaty privileges.

That under these circumstances, a compliance with the customs act, involving only the report of a vessel, cannot be held to be a hardship or an unfriendly proceeding.

The minister submits, in view of the repeated groundless complaints of being harshly treated that have been made during the present season by captains of United States fishing vessels, and in almost every instance traceable to a refusal or neglect to observe the customs regulations, which, it is proper to state, are enforced upon other vessels as well as those of the United States, herewith a letter written by Captain Blake, of the United States schooner Andrew Burnham, which appeared in the Boston (Massachusetts) Herald of the 7th instant, and also the editorial comments thereon made in a subsequent issue of the paper referred to.

The minister believes that the statements made by Captain Blake are strictly accurate, and as applied to other vessels are substantiated by the weekly boarding reports, received by the fishery department from the different captains engaged in the fisheries protection service. He, the minister, therefore respectfully submits that the reflections of Mr. Secretary Bayard, characterizing the treatment extended to the captain of the Rattler as unwarrantable and unfriendly, is not merited, in view of the facts as stated by Captain Quigley and Collector Attwood.

The committee concur in the report of the acting minister of marine and fisheries and advise that your excellency be moved to transmit a copy of this minute, if approved, to the right honorable Her Majesty's principal secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 56.]

[Extract from the Boston Herald of October 9, 1886.]

A Fishing Captain's Experience.—The letter of Capt. Nathan F. Blake, of the fishing schooner Andrew Burnham, of this city, which we published on Wednesday, would apparently indicate that the Canadian officials have not been disposed to push the requirements of their law quite as vigorously as some of our fishermen have maintained. Captain Blake says he has experienced not the least trouble in his intercourse with the Canadian officials, but that as he treated them courteously, they, on their side, have reciprocated in like terms. There is, undoubtedly, a great deal of bitterness felt on both sides, and probably this bitterness has led both parties to be ungracious in their own conduct, and to exaggerate the wrongs they have endured, hardships frequently due to an unwillingness to observe the requirements of the law as these are now laid down. If all American fishing captains exhibited the same courtesy and moderation that Captain Blake has shown, we imagine that there would be very little trouble in arriving at an equitable and pleasing understanding with Canada.

[Inclosure in No. 56.]

Captain Quigley to Major Silton.

SHELburne, September 30, 1886.

SIR: I beg to acknowledge the receipt of your letter of the 27th instant, requesting the circumstances connected with the boarding of the vessels *Rattler*, *Julia* and *Shiloh*.

In the case of the *Rattler*, she came into Shelburne Harbor on the evening of the 28th August at 6 o'clock. She being at some distance from where I was anchored, and being too rough to send my boat so far, I fired a musket signal for her to round-to, which she did, and came to an anchor alongside of my vessel.

I then sent the chief officer to board her; he reported she put in for shelter. The captain was then told by the chief officer to report his vessel before he sailed, and that he must not let his men on shore, and that he would leave two men, who are always armed, on board to see that he did not otherwise break the law.

About midnight the captain hoisted his sails to leave port, thereby evading the customs law requiring him to report (for which I refer you to section 25 of the customs act), and disregarding my instructions.

The watchman fired a signal, calling my attention to his act, when I sent the chief officer to tell him he must lower his sails and report his vessel in the morning, otherwise he would like to have his vessel detained. He did so, and sailed up in company with the chief officer at 4 o'clock a. m. On the way in the calm, and the vessel anchored. The chief officer with my boat's crew rowed him up to the custom-house, where he reported at 6 a. m.; and returned, passing out to sea at 8 a. m. The captain was only asked to report his vessel as all others do, but was not disposed to do so.

In the case of the *Julia* and *Ellen*, she came into the harbor of Liverpool on the 29th of August, about 5 p. m. Being some distance from me, I fired a blank musket shot to round her to. When she anchored I boarded her, and the captain reported that he came in for water. I told him to report his vessel in the morning, as it was then after customs hours, and that he must not let his men ashore, and that I would leave two men on his vessel to see that my instructions were carried out, and to see that he did not otherwise break the law.

In the morning, at 8 o'clock, I called for the captain to go to the custom-house and told him his men could go on and take water while he was reporting, so that he would be all ready to sail when he returned, which they did, and he sailed at noon.

In the case of the *Shiloh*, she came into the harbor about 6 p. m. on the 9th of August, at Liverpool, and a signal was fired in her case the same as the others.

When she anchored I boarded her, and the captain reported she was in for water. I told him it was then too late to report at the customs till morning, and that he must not allow his crew on shore; also that I would leave two men on board to see that he did not otherwise break the law, and that my instructions were carried out.

In the morning I called for the captain, when taking the *Julia* and *Ellen*'s captain ashore. When there I told him, as I did the other, that his men could go on taking water while he was reporting, so that he could sail when he returned, and not be delayed. This they did not do.

I have reason to know that it was not water this vessel came in for, as several of the crew lived there, and it was for the purpose of letting his men ashore, and not for taking water, that he put in. He afterwards emptied six barrels of water, stating that they were sour, and fooled all day filling them, delaying the time, that he might get his crew on shore. I refused to allow his crew on shore for any other purpose than to take water, after completing which, the weather being fine, I ordered him to sea in the evening.

The signals that were fired were not intended to make them come-to quickly, but a signal for them to either round-to or show their ensign.

After the *Shiloh* sailed the harbor master informed me that she landed two men at the mouth of the harbor, 7 miles down, before she reported, and the evening she sailed she called after dark and picked them up.

In many cases it is an understood thing between the captains and crews to let the men ashore and then make out they have deserted. In all cases where a vessel puts in for shelter the captain reports, and the rest of his crew are not allowed ashore, as the vessel only put in for the privilege of shelter and for no other purpose.

When she puts in for water, after reporting, the captain is allowed to take his boats ashore, the men he requires to procure water, and the rest remain on board, after which he is ordered to sea. When in for repairs he is allowed all the privileges he requires after reporting, and when ready is ordered to sea. In all cases, except when in for repairs, I place men on board to see that the law is not violated, as many of those vessels put into the harbor and make taking water and seeking shelter an excuse either to get men or land them, or to allow them a chance to see their friends, or to get goods

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ashore if the vessel is on her way from American ports to the fishing grounds, and have landed men here and at other ports on this coast in my absence.

In one case in this port, a vessel, finding I was in the harbor, let men take a boat and land, she going on her way home to the States. That is why I put men on these vessels, to keep them from breaking the law under cover of night. I might remark here that the collector of customs at Liverpool informed me that the Shiloh on her previous voyage remained in port five days after being ordered out, delaying for the purpose of letting the men be with their friends.

Now that they are not allowed all the privileges they once enjoyed, it is an outrage on my part.

These are the facts connected with those vessels which I reported to Captain Scott while in Halifax some time ago. I treat all courteously, but firmly, and find no trouble with any but a few who wish to evade the law.

I am, &c.,

THOMAS QUIGLEY,
Government Cruiser Terra.

[Inclosure 5 in No. 56.]

Mr. Attwood to the Commissioner of Customs, Ottawa.

CUSTOM-HOUSE, SHELBURNE, September 6, 1886.

SIR: I have to acknowledge the receipt of your telegram of the 4th instant relative to schooner Rattler, and I wired an answer this morning as requested.

On the morning of the 4th ultimo chief officer of Terror, accompanied by Capt. A. F. Cunningham, called at this office. Captain Cunningham reported his vessel inward as follows, viz: Schooner Rattler, of Gloucester, 93 tons register, 16 men, from fishing banks, with 465 barrels mackerel, came in for shelter.

I was afterwards informed by the officer of cutter that they found the schooner the evening before at anchor off Sandy Point, 5 miles down the harbor. Two men from cutter were put on board, and the master required to report at customs in the morning. I was also informed that the master, Captain Cunningham, made an attempt to put to sea in the night by hoisting sails, weighing anchor, &c., but was stopped by officer from cutter.

I am, &c.,

W. H. ATTWOOD,
Collector.

[Inclosure 6 in No. 56.]

[Extract from the Montreal Gazette of October 13, 1886.]

A Fisherman's Tale.—The following letter which appears in the Boston Herald conveys a different impression to many statements that have appeared on the subject:

"So much has been written and printed about the experiences of American fishermen in Canadian waters, and the indignities put on them, I wish you would open your columns and give your readers an insight into the other side of the story. I sailed from Boston for North Bay on the 16th June, not knowing just what the cutters would do or how the law would be interpreted. I neared the coast with fear and anxiety. The first land sighted was White Head, and immediately cries came from aloft, 'Cutter in sight, ahead.' I rushed to the deck, found the vessel, which proved to be the Howlet, commanded by Captain Lowry, nearing us rapidly. At time of sighting the cutter we were standing inshore. She hoisted her flag to let us know what she was and we immediately 'about ship,' and put to sea to get out of her way, for fear we might be placed on the prize-list of the captures. We finally headed up for Port Mulgrave, in Canso, expecting to receive rough usage from the authorities, but, to our surprise, found Collector Murray a perfect gentleman, willing to assist me as far as he could without encroaching on the Canadian laws. From there we put in at Port Hawkesbury, and boarded the cutter Conrad, and asked the captain for instructions in regard to the three-mile limit, and what privileges, if any, we had. I was answered in a courteous and hearty way, that he did not have them aboard, but would go ashore in a few moments and get me a printed copy of the regulations, which he did, and assured us that if we followed them we would be unmolested; that he was there to see that the law was not violated, but not to cause unnecessary annoyance. After receiving instructions from the captain, thanks to him, I went to the custom-house and entered my vessel, paying 25 cents. I found a very pleasant gentleman in the collector, who did all in his power to relieve my mind and make us comfortable. Some of our next port of landing, where we also reported and were well treated. From the

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we went to Malpeque, where we found another gentleman in the collector. We met the cutter Howlet at Cassumpece, and had several interviews with the commander, Captain Lowry, whom I found a quiet, just, and gentlemanly officer. My vessel was one of the fleet ordered out of harbor by him. At that time it was as good a fish day as one could ask for, and the instructions were plain that at such times we had no right to remain in harbor. At no time is there much water to spare on the bar, and it is a common occurrence for vessels to ground in going in or out, and that some did touch was due to ignorance of the channel or carelessness on the part of captains. At the time the order was issued the weather was fair, but before all the fleet could work out through the channel, one of the sudden changes in weather, so much to be dreaded on such a coast, came, and the cutter rescinded the order and the fleet returned. It has been printed in a Boston paper that, owing to being forced to sea by the cutter's orders in bad weather, my schooner, the Andrew Burnham, fouled two Englishmen, and narrowly escaped serious damage. If true, it would look like a hardship. It was simply this: In getting under way, in a small and crowded space, finding I would not have room, I dropped our starboard anchor. That not holding, we let go the other, and it brought us up all right; not much in this to point to as an outrage or danger from stress of weather. I believe Captain Lowry to be a man who would carry out all the requirements of the Canadian laws, but I saw nothing in my experience in those waters that could be considered as being arbitrary, or taking a mean advantage of his official authority to annoy any one. Captain Lowry has been a master of vessels for twenty-five years, is a man of high reputation as a seaman, and as good a judge of whether the weather is favorable for a vessel to go to sea as any man who walks a deck, and when he ordered the fleet to sea he went himself, and I know he would not order a vessel to leave harbor if there was any danger of loss of life or property. We reported at Cassumpece, and were treated the same as at all other ports we touched at. If our vessels would attend to reporting at the custom-house, the same as they do in our ports, no trouble would be met with.

"If we had free fish it would give the Canadians some recompense for what our fishermen want, viz, the right to go anywhere and everywhere, use their harbors, ship men, get provisions, land and mend our nets, buy salt and barrels, and ship our catch home by rail or steamer without expense or annoyance, the same as we have heretofore.

"If we had had that privilege this year, myself and vessel would have been \$5,000 better off this season, and all the fishermen in the bay would have been in the same boat with me. I do not say that I am too honest not to fish within the three-mile limit, nor do I believe there is a vessel in the fleet who would not, if the cutter was out of sight. I made two trips to the bay, both of which were very successful, and I lived up to the requirements of the law as well as I knew how, and did not find them obnoxious or to interfere with my success, and everywhere I went I was courteously treated by the officials, especially so by both the cutters. Should it be a bay year next season, I hope to meet them again. Those who openly preached that they would go where they pleased, do what they wanted to in spite of law or cutters, shipped men, smuggled, or openly fished inside the limit, and indulged in the satisfaction of damning the cutter, the captain, the Government, and everything else when they knew they could do it with impunity, and that the men they were talking to could not resent it by word or blow, were looked after sharp, and were not extended the courtesy that was shown so many of us.

"In the interest of fair play, I could not help writing you and asking you to give this to your readers, if not taking up too much of your valuable space.

"Very respectfully,

"NATHAN F. BLAKE,

"Captain Schooner Andrew Burnham, of Boston.

"Boston, October 6, 1886."

No. 57.

Sir L. West to Mr. Bayard.

WASHINGTON, December 7, 1886.

SIR: I am instructed by the Earl of Idlesleigh to communicate to you the inclosed copy of a dispatch, with its inclosures, from the officer administering the Government of Canada, expressing the regret of the Dominion Government at the action of the captain of the Canadian cut-

ter Terror in lowering the United States flag from the United States fishing schooner Marion Grimes, of Gloucester, Mass., while that vessel was under detention at Shelburne, Nova Scotia.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1 in No. 57.]

Acting Governor Lord A. G. Russell to Mr. Stanhope.

HALIFAX, NOVA SCOTIA, October 27, 1886.

SIR: I have the honor to transmit herewith a copy of an approved minute of the privy council of Canada, expressing the regret of my Government at the action of the captain of the Canadian cutter Terror in lowering the United States flag from the United States fishing schooner Marion Grimes, of Gloucester, Mass., while that vessel was under detention at Shelburne, Nova Scotia, by the collector of customs at that port for an infraction of the customs regulations.

I have communicated a copy of this order in council to Her Majesty's minister at Washington.

I have, &c.,

A. G. RUSSELL,
General.

[Inclosure 2 in No. 57.]

Report of a committee of the honorable the privy council for Canada, approved by his excellency the administrator of the Government in council on the 26th October, 1886.

On a report, dated the 14th October, 1886, from the Hon. Mackenzie Bowell, for the minister of marine and fisheries, stating that on Monday, the 11th October instant, the United States fishing schooner Marion Grimes, of Gloucester, Mass., was under detention at Shelburne, Nova Scotia, by the collector of customs at that port for an infraction of the customs regulations; that while so detained, and under the surveillance of the Canadian Government cutter Terror, the captain of the Marion Grimes hoisted the United States flag.

The minister further states that it appears that Captain Quigley, of the Terror, considered such act as an intimation that there was an intention to rescue the vessel, and requested Captain Landry to take the flag down. This request was complied with. An hour later, however, the flag was again hoisted, and on Captain Landry being asked if his vessel had been released, and replying that she had not, Captain Quigley again requested that the flag be lowered. This was refused, when Captain Quigley himself lowered the flag, acting under the belief that while the Marion Grimes was in possession of the customs authorities, and until her case had been adjudicated upon, the vessel had no right to fly the United States flag.

The minister regrets that he should have acted with undue zeal, although Captain Quigley may have been technically within his right while the vessel was in the custody of the law.

The committee advise that your excellency be moved to forward a copy of the minute, if approved, to the right honorable the secretary of state for the colonies and to Her Majesty's minister at Washington, expressing the regret of the Canadian Government at the occurrence.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk, Privy Council.

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II.—CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE UNITED STATES LEGATION IN LONDON.

No. 58.

Mr. Bayard to Mr. Phelps.

No. 289.]

DEPARTMENT OF STATE,
Washington, May 11, 1886.

SIR: With reference to your telegram of the 9th instant, in regard to the fisheries question, I transmit to you herewith a copy of a note which I addressed to Sir Lionel West yesterday on the subject.

I am, &c.,

T. F. BAYARD.

[Inclosure.]

Mr. Bayard to Sir L. West, May 10, 1886. (For inclosure, see No. 4, p. 6.)

No. 59.

Mr. Bayard to Mr. Phelps.

No. 303.]

DEPARTMENT OF STATE,
Washington, May 21, 1886.

SIR: With reference to my instruction No. 289 of the 11th instant, transmitting to you a copy of my note of the 10th of this month to Sir Lionel West, Her Britannic Majesty's minister at this capital, concerning the fishery question, I now inclose for your information a copy of a further note on the same subject, which I addressed to Sir Lionel West yesterday, inclosing also a copy of the report of the United States consular-general at Halifax, which is referred to in my note to Sir Lionel West.

I am, &c.,

T. F. BAYARD.

[Inclosure.]

Mr. Bayard to Sir Lionel West, May 20, 1886. (See No. 6, p 10.)

[Inclosure No. 2 with No. 303.]

Mr. Phelan to Mr. Porter.

No. 82.]

UNITED STATES CONSULATE-GENERAL,
Halifax, May 15, 1886.

SIR: As instructed by message from the honorable Secretary of State to personally report, fully and carefully, all the facts and proceedings connected with the seizure of the American schooner David J. Adams by armed men from the Canadian steamship Lansdowne, I left Halifax for St. John May 10 as soon after receiving the message as the means of travel would permit. After leaving I learned that the vessel had been taken back to Digby, where I proceeded, and found her anchored close to the Lansdowne in Digby Harbor. Shortly after my arrival Captain Scott, of the Lansdowne, formally transferred the custody of the vessel to the collector of the port of Digby to be held on a charge, as the collector informed me, of violating the customs act of 1883, the penalty being \$400. He said if this sum was paid and the vessel not claimed by the minister of fisheries he would release her. On the following morning, in order to get at the facts in connection with the seizure, I addressed a note to the collector asking him to furnish me a copy of the charges against the vessel. He replied verbally that the vessel passed out of his possession, and was again in Captain Scott's custody. I then addressed Captain Scott a communication asking him to state in writing, fully and specifically, with as little delay as possible, why he detained this vessel. (A copy marked A attached.)

Captain Scott replied by referring me to the deputy minister of fisheries in Ottawa. (Reply attached marked B.) The refusal of Captain Scott to give this information, which I had a right to have, even without asking for it, was not only discourteous to me, but an indignity to the nation whose vessel he seized. The next morning I heard that a process in an admiralty suit against the schooner was served on the vessel. I went on board and found that the process was served by affixing to the mast with nails what I supposed to be a warrant or summons; no part of which, except the indorsement, was visible. I requested permission from the person in charge of the schooner to take down this process so that I might read, and, if possible, ascertain from its contents what offenses were charged against this vessel. My request was refused; and right here I may remark that it seems a strange course of procedure to serve a party with a process to appear and defend a suit, and then prohibit that party and those interested in his protection and defense in respect to that suit, from seeing or inspecting the process thus served. The frequent changes as to the custodians of this vessel, the mysterious, secret, and unexplained movements of these officials, and their refusal to set forth any of the alleged offenses charged to the vessel, was most aggravating.

All the parties to the controversy were on the ground, and want of knowledge could not be urged as a reason why this information was withheld. Not until after my arrival in Halifax, on the 14th of May, did I receive the slightest intimation of the charge against the vessel, but on the contrary every effort was made to conceal it. All I could do under the circumstances was to serve Captain Scott, and the person in charge of the schooner, with protest (marked C). Captain Scott arrived in Halifax on the 12th. On the 14th he sent me a second reply (marked D), in which he stated that the vessel was seized for a violation of the imperial statutes in entering a port for other than a legal purpose.

The facts in this case, as I obtained them from Captain Kinney, are as follows:

The David J. Adams entered Digby Bay on Wednesday evening, May 5, 1886. Her captain purchased from a fisherman named Ellis, residing at the entrance of Digby Bay, nearly five barrels of bait. On Thursday he purchased from several fishermen, whose names he did not know, nearly seven barrels of bait. He then brought his vessel to anchor. It appears that this man Ellis had promised to sell this bait to a Canadian captain named Sproule for 75 cents per barrel, but getting \$1.25 from the captain of the David J. Adams, sold it to him. The Canadian captain reported the sale to the collector, who telegraphed for the Lansdowne which arrived during the night. On Friday morning the David J. Adams in sailing out of the basin, was hailed by a boat from the Lansdowne and came alongside, the commander of which asked the name of the vessel and that of her owner, where she was from, and her business in the basin. Being answered by the captain in his own way, the boat returned to the Lansdowne without ordering the vessel to sea. The schooner continued her course, but ran aground, and while in this position she was boarded a second time. The officer in charge stated that he had orders from Captain Scott to search the vessel, and immediately proceeded to carry out the order, and found some herring. The captain was asked how old they were. He replied about ten days. The boat again returned to the Lansdowne and brought to the schooner a new officer, who examined the vessel and returned to the Lansdowne. The fourth visit to the vessel brought Captain Scott, who, in the name of the Queen, seized her. On Saturday

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morning the vessel was taken to St. John, N. B., and on Sunday she was returned to Digby, the place of capture.

A suit has been begun in the supreme court of Nova Scotia at Halifax in the name of the Queen against Alden Kinney, master, in which the following claim is made, namely, for £200 sterling, equal to \$973.33, for violation of a certain convention between his late Majesty, George the Third, King of Great Britain and Ireland, of the one part, and the United States of America of the other part, made on the 20th day of October, A. D. 1818, and for violation of the act of Parliament of Great Britain and Ireland, made and passed in the fifty-ninth year of the reign of his late Majesty, George the Third, King of the United Kingdom of Great Britain and Ireland, being chapter 38 of the acts of the said last Parliament, and passed in said year. In addition to the above, an action has been instituted in the vice-admiralty court at Halifax to have the vessel and cargo forfeited. The charges are (1) that she violated the treaty of 1818; (2) that she violated the provisions of the act 59, George the Third; (3) that she violated the provisions of chapter 61 of the Canadian acts of 1870, and chapter 23 of the acts of Canada, 1871. Also a suit was instituted later for violating the customs act of Canada for 1883. Under this act it is charged that the vessel did not report her arrival at Digby to the customs officer. Digby is a fishing village without a corporation, and, so far as I could learn, and I made special inquiry, the harbor is not defined, and the practice has been that only vessels having business at Digby entered at the custom-house. The records of the office will show, and the collector admitted, that during his forty years' service fishermen went in and out the bay at pleasure and were never required to report. It is very plain that this suit was not instituted to vindicate the law, as the vessel was not apprehended on that charge, but instituted to annoy and harass our fishermen. The other suits are for violating the treaty of 1818, and statutes made under it. I confidently report that the only charge against the vessel that can be sustained, or that she is guilty of, is purchasing fish in British waters.

My conclusions are therefore as follows:

- (1) That the David J. Adams was not fishing, had not fished, and was not preparing to fish in British waters.
- (2) She did not conceal her name nor attempt to conceal her name.
- (3) She did not report to the custom-house at Digby, because she did not enter the harbor of Digby, but only Digby Basin.
- (4) She purchased twelve barrels of fish for bait in British waters for deep-sea fishing, and not to fish in such waters.

I am, sir, your obedient servant,

M. H. PHELAN,
Consul-General.

[Inclosure 1 with Mr. Phelan's No. 32.]

Mr. Phelan to Captain Scott.

CONSULATE GENERAL OF THE UNITED STATES, HALIFAX,
Digby, Nova Scotia, May 11, 1886.

Captain SCOTT, Fishery Officer,
Commanding S. S. Lansdowne:

SIR: It has been brought to my knowledge that certain officers and men of the S. S. Lansdowne boarded the American schooner David J. Adams on the coast of Nova Scotia, and by force took therefrom the master and crew of said schooner, and that the said American schooner, David J. Adams, is now in your possession and custody, and held by you as commander of the Canadian marine police against the owners and master thereof.

Therefore, it becomes my duty, as consul-general of the United States for the maritime provinces, to ask you to state in writing, fully and specifically, with as little delay as possible, why you detain such vessel, and refuse to restore her to the lawful owners and master.

I am, &c.,

M. H. PHELAN,
Consul-General United States.

[Inclosure 2 with Mr. Phelan's No. 82.]

Captain Scott to Mr. Phelan.

CANADIAN GOVERNMENT S. S. LANSDOWNE,
Digby, Nova Scotia, May 11, 1886.

SIR: I am in receipt of your letter of this day's date, requiring to know why I have detained the American fishing schooner D. J. Adams, and in reply would beg of you to apply to the deputy minister of fisheries in Ottawa for an answer, as I am acting under instruction.

I have, &c.,

P. A. SCOTT,

Captain Commanding the Marine Police.

The Hon. M. H. PHELAN,
Consul-General for the United States.

[Inclosure 3 with Mr. Phelan's No. 83.]

Protest of Captain Kenney, of the David J. Adams.

To Captain Scott, commanding the Marine Police, and all other persons whomsoever seizing, holding, or detaining the schooner David J. Adams:

Take notice that the undersigned hereby protest and object against the illegal seizure and detention of said vessel and her appurtenances, and demand the immediate restoration of said vessel to the undersigned, the lawful master.

And further take notice that the owners of and parties interested in said vessel intend to hold the parties who seized said vessel, as well as those who may have her in their custody, or who may detain her, liable for all damages consequent upon their seizure and detention.

ALDEN KINNEY,
Master David J. Adams.

DIGBY, May 12, 1886.

Countersigned and concurred in by

M. H. PHELAN,
Consul-General of the United States.

[Inclosure 4 with Mr. Phelan's No. 83.]

Deposition of the captain and crew of the David J. Adams.

In the matter of the seizure of the United States schooner David J. Adams, of Gloucester, now held by the Dominion of Canada.

We, the captain and crew of the schooner David J. Adams, of Gloucester, Mass., in the United States of America, depose and saith under oath, as follows: I, Captain Alden Kinney; I am 25 years old; occupation, seaman; citizen of the United States. What is your present occupation? Master of the David J. Adams. What is her tonnage? Sixty-six register. Owned by Capt. Jesse Lewis. We left Gloucester, Mass., for Eastport, Me., for bait on or about the 10th day of April last. We arrived at Eastport, Me., on the following Monday, April 12, and got bait and proceeded to the Banks. We fished for several days, say about twelve days, and set out for and returned to Eastport, Me., that being a central station as a general thing for fishermen's headquarters at this season of the year for bait and other supplies. We again left Eastport for the Banks and put into Digby Basin about 11 o'clock on the 6th day of May, and we anchored under Lower Granville. We got under way the next morning at about 5 o'clock, bound out. The reason we could not get out was on account of the wind dying away, and we drifted back with the tide. We sailed up off of Digby Town and tacked, anchoring off of or about Bear Island. This was about 10 o'clock in the forenoon. Not being satisfied with the place we layed we shifted further up the basin, say about two miles further. We again anchored there until 5 o'clock, got under way, and shifted to another part of the basin and anchored until Friday morning about 4 o'clock. We then got under way and started to go out of the basin into the Bay of Fundy. Shortly after we got under way a boat from the steamer lying off the harbor, which proved to be the steamer Lansdowne, of the Dominion service, was seen coming toward us and we continued our course as we were before we saw the boat coming. The boat caught up to us when we were about a mile and a half from our recent anchorage of the night. The officer on board the boat asked us where we hailed from, and the vessel's name and tonnage; captain's name and owner's, and

what we were the boat rowed Channel (they about two ho the basin. W Lansdowne, w that he was o on board and stated to Capt that they wer ship. Afterw other officer, v amined the he came officers n be held here in vessel to Digby order we obeye up to the tow board his vess and await fur hatches remov el Captain Sc notified us that once return wi Weremained on of the Lansdo the exception of then taken to S ous to go on sh J. Adams with fastened to the The vessel was tansdowne tha return to Digb; and that of the nesday, the 12t captain of the landed from the Question. Cap tacking canvas Captain Kinn cealed nor atten Did you ever Captain answ Deep-sea fishing Did you ever waters? No, sir; I did Did you come waters during th Answer. No, I Did you purch River? Answer. No, I

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what we were there for, and if we had any bait in. Receiving my reply (captain's) the boat rowed away. We still continued on our course until we got into St. George's Channel (they called), and grounded at low water, and there remained aground for about two hours, and after floating the tide was too strong for us to proceed out of the basin. We were at that time again boarded by the same boat and officer of the Lansdowne, who searched our vessel. The officer, on boarding with armed men, said that he was ordered by Captain Scott to search the vessel, which they did by coming on board and examining the hold of the vessel and different parts of the deck. They stated to Captain Kinney that some herring was below in the hold, and we answered that they were ten days old. The officer of Lansdowne and boat returned to their ship. Afterwards the Lansdowne boat boarded us for the third time, and brought another officer, whom I understand was Captain Dakin, who also entered hold and examined the herring, and then returned to their vessel. Again for the fourth time the same officers and crew of the Lansdowne boarded us, who informed us that we would be held here in Digby for some time. We were ordered by the same officer to bring our vessel to Digby and to anchor as near as possible to the steamer Lansdowne, which order we obeyed. This was the morning of May 7. The same boat, after being towed up to the town by us, cast off from us also; the officer and crew in charge went on board his vessel. Soon after an officer boarded us and ordered us to lower our sails and await further orders. About four hours afterward Captain Scott ordered the hatches removed, and he examined the cargo, and returning to the deck of our vessel Captain Scott said he had seized us in the Queen's name. Then Captain Scott notified us that we might go on shore to the American consul, and said he would at once return with Lansdowne and the schooner David J. Adams to St. John, N. B. We remained on board our own vessel during that night under charge of five armed men of the Lansdowne's crew. Saturday morning early all of us and our captain, with the exception of three of our men, were ordered on board the Lansdowne. We were then taken to St. John and went on shore, according to the order of the night previous to go on shore. Our captain took the papers and articles belonging to the David J. Adams with him on shore. Our vessel was towed to St. John at the same time and fastened to the Lansdowne with chain cable, both lying at the wharf at St. John. The vessel was there on Sunday morning, when I was informed by an officer of the Lansdowne that they were going to remove her to Digby. I was told that I could return to Digby in the vessel if I chose, or otherwise take out my personal effects and that of the crew. The Lansdowne and our vessel then left St. John. On Wednesday, the 12th day of May, on our arrival in Digby, Captain Scott came to me as captain of the D. J. Adams and demanded her register of said vessel before I had landed from the steamboat, which I refused to give up.

Question. Captain, there is a charge that you concealed the name of your vessel by tacking canvas or by other means of covering the name on the stern of the vessel?
 Captain Kinney answers that he denies the charge; it is not true. I never concealed nor attempted to conceal the name of the vessel.

Did you ever fish or attempt to fish in British waters during this season?
 Captain answers that he never did; that he never saw the land from where I fished. Deep-sea fishing is the only fishing that we are engaged.

Did you ever buy bait or attempt to buy bait for the purpose of fishing in British waters?

No, sir; I did not.

Did you come into Digby Basin to buy bait for the purpose of fishing in British waters during this season?

Answer. No, I did not.

Did you purchase bait or attempt to purchase bait while at anchor above Bear River?

Answer. No, I did not.

ALDEN KINNEY,
 Master.

We, the undersigned seamen or crew of the schooner David J. Adams, of Gloucester, Mass., in the United States of America, being present and having heard the above testimony of Capt. Alden Kinney, and we all being under oath, do certify that the same is true to our best knowledge and belief and we know no other fact bearing on or in connection with this case.

SAMUEL HOOPER.
 JAMES SWINEBORG.
 JOHN BROWN.
 E. D. SIMMONS.
 JOSEPH BOUCHIN.
 FRANK ARNESEN.

ISAIAH ROBERTS.
 JOHN BEATON.
 ELROY PRIOR.
 FRED. FISCHER.
 JOSEPH HENLEY.
 CALVIN COOK.

Sworn and subscribed before me at Digby, Nova Scotia, May 13, 1886.

[SEAL.]

M. H. PHELAN,
 Consul-General, United States.

[Inclosure 5 with Mr. Phelan's No. 82.]

*Captain Scott to Mr. Phelan.*CANADIAN STEAMER LANSDOWNE,
Digby, May 12, 1886.

SIR: In reply to your letter of the 11th instant, I am directed by the minister of marine and fisheries to state to you that the David J. Adams was seized for a violation of the Canadian customs act, and also for a violation of the imperial statute for entering a port for other than legal purposes.

I am, sir, your obedient servant,

P. N. SCOTT,
Captain and Fishery Commissioner.

The Hon. M. H. PHELAN,
Consul-General, United States.

No. 60.

Mr. Bayard to Mr. Phelps.

No. 310.]

DEPARTMENT OF STATE,
Washington, June 1, 1886.

SIR: With reference to my instructions No. 289, of the 11th ultimo, and No. 303, of the same month, transmitting to you for your information copies of my recent notes to Sir Lionel West concerning the fisheries question, I now inclose herewith for your further information two copies of a note which I addressed on the 29th ultimo to Her Britannic Majesty's minister at this capital in relation to house of commons bill No. 136, now pending in the Dominion Parliament, entitled "An act further to amend the act respecting fishing by foreign vessels."

I am, &c.,

T. F. BAYARD.

[Inclosure.]

Mr. Bayard to Sir L. West, May 29, 1886. (See No. 8, p. —.)

No. 61.

Mr. Phelps to Mr. Bayard.

No. 293.]

LEGATION OF THE UNITED STATES,
London, June 5, 1886. [Received June 14.]

SIR: I have the honor to inclose herewith the copy of a note which I have this day addressed to the Earl of Rosebery, Her Majesty's principal secretary of state for foreign affairs, on the subject of the Canadian fisheries, embodying the substance of the views which, under instructions from the Department of State, I have already presented to his lordship orally in various interviews, and of the arguments adduced in support of the same.

I have, &c.,

E. J. PHELPS.

[Inclosure with Mr. Phelps's No. 203.]

Mr. Phelps to Lord Rosebery.

LEGATION OF THE UNITED STATES,

London, June 2, 1886.

MY LORD: Since the conversation I had the honor to hold with your lordship, on the morning of the 29th ultimo, I have received from my Government a copy of the report of the consul-general of the United States at Halifax, giving full details and depositions relative to the seizure of the David J. Adams, and the correspondence between the consul-general and the colonial authorities in reference thereto.

The report of the consul-general and the evidence annexed to it appear fully to sustain the point submitted to your lordship in the interview above referred to, touching the seizure of this vessel by the Canadian officials.

I do not understand it to be claimed by the Canadian authorities that the vessel seized had been engaged or was intending to engage in fishing within any limit prohibited by the treaty of 1818.

The occupation of the vessel was exclusively deep-sea fishing, a business in which it had a perfect right to be employed. The ground upon which the capture was made was that the master of the vessel had purchased of an inhabitant of Nova Scotia, near the port of Digby, in that province, a day or two before, a small quantity of bait to be used in fishing in the deep sea, outside the three-mile limit.

The question presented is whether, under the terms of the treaty and the construction placed upon them in practice for many years by the British Government, and in view of the existing relations between the United States and Great Britain, that transaction affords a sufficient reason for making such a seizure and for proceeding under it to the confiscation of the vessel and its contents.

I am not unaware that the Canadian authorities, conscious, apparently, that the affirmative of this proposition could not be maintained, deemed it advisable to supplement it with a charge against the vessel of a violation of the Canadian customs act of 1883, in not reporting her arrival at Digby to the customs officer. But this charge is not the one on which the vessel was seized, or which must now be principally relied on for its condemnation, and standing alone could hardly, even if well founded, be the source of any serious controversy. It would be at most, under the circumstances, only an accidental and purely technical breach of a custom-house regulation, by which no harm was intended, and from which no harm came, and would in ordinary cases be easily condoned by an apology, and perhaps the payment of costs.

But trivial as it is, this charge does not appear to be well founded in point of fact. Digby is a small fishing settlement and its harbor not defined. The vessel had moved about and anchored in the outer part of the harbor, having no business at, or communication with Digby, and no reason for reporting to the officer of customs. It appears by the report of the consul-general to be conceded by the customs authorities there that fishing vessels have for forty years been accustomed to go in and out of the bay at pleasure, and have never been required to send ashore and report when they had no business with the port, and made no landing; and that no seizure had ever before been made or claimed against them for so doing.

Can it be reasonably insisted under these circumstances that by the sudden adoption, without notice, of a new rule, a vessel of a friendly nation should be seized and forfeited for doing what all similar vessels had for so long a period been allowed to do without question?

It is sufficiently evident that the claim of a violation of the customs act was an afterthought, brought forward to give whatever added strength it might to the principal claim on which the seizure had been made.

Recurring, then, to the only real question in the case, whether the vessel is to be forbidden for purchasing bait of an inhabitant of Nova Scotia, to be used in lawful fishing, it may be readily admitted that if the language of the treaty of 1818 is to be interpreted literally, rather than according to its spirit and plain intent, a vessel engaged in fishing would be prohibited from entering a Canadian port "for any purpose whatever" except to obtain wood or water, to repair damages, or to seek shelter. Whether it would be liable to the extreme penalty of confiscation for a breach of this prohibition in a trifling and harmless instance might be quite another question.

Such a literal construction is best refuted by considering its preposterous consequences. If a vessel enters a port to post a letter, or send a telegram, or buy a newspaper, to obtain a physician in case of illness, or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants in fire, flood, or pestilence, it would, upon this construction, be held to violate the treaty stipulations maintained between two enlightened maritime and most friendly nations, whose ports are freely open to each other in all other places and under all other circumstances.

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If a vessel is not engaged in fishing she may enter all ports; but if employed in fishing, not denied to be lawful, she is excluded, though on the most innocent errand. She may buy water, but not food or medicine; wood, but not coal. She may repair rigging, but not purchase a new rope, though the inhabitants are desirous to sell it. If she even entered the port (having no other business) to report herself to the custom-house, as the vessel in question is now seized for not doing, she would be equally within the interdiction of the treaty. If it be said these are extreme instances of violation of the treaty not likely to be insisted on, I reply that no one of them is more extreme than the one relied upon in this case.

I am persuaded that your lordship will, upon reflection, concur with me that an intention so narrow, and in its result so unreasonable and so unfair, is not to be attributed to the high contracting parties who entered into this treaty.

It seems to me clear that the treaty must be construed in accordance with these ordinary and well-settled rules applicable to all written instruments, which without such salutary assistance must constantly fail of their purpose. By these rules the letter often gives way to the intent, or rather is only used to ascertain the intent.

The whole document will be taken together, and will be considered in connection with the attendant circumstances, the situation of the parties, and the object in view, and thus the literal meaning of an isolated clause is often shown not to be the meaning really understood or intended.

Upon these principles of construction the meaning of the clause in question does not seem doubtful. It is a treaty of friendship and not of hostility. Its object was to define and protect the relative rights of the people of the two countries in these fisheries, not to establish a system of non-intercourse or the means of mutual and unnecessary annoyance. It should be judged in view of the general rules of international comity and of maritime intercourse and usage, and its restrictions considered in the light of the purposes they were designed to serve.

Thus regarded it appears to me clear that the words "for no other purpose whatever," as employed in the treaty, mean no other purposes inconsistent with the provisions of the treaty, or prejudicial to the interests of the provinces or the merchants, and were not intended to prevent the entry of American fishing vessels into Canadian ports for innocent and mutually beneficial purposes, or unnecessarily to restrict the free and friendly intercourse customary between all civilized maritime nations, and especially between the United States and Great Britain. Such, I cannot but believe, is the construction that would be placed upon this treaty by any enlightened court of justice.

But even were it conceded that if the treaty was a private contract, instead of an international one, a court in dealing with an action upon it might find itself hampered by the letter from giving effect to the intent, that would not be decisive of the present case.

The interpretation of treaties between nations in their intercourse with each other proceeds upon broader and higher considerations. The question is not what is the technical effect of words, but what is the construction most consonant to the dignity, the just interests, and the friendly relations of the sovereign powers. I submit to your lordship that a construction so harsh, so unfriendly, so unnecessary, and so irritating as that set up by the Canadian authorities is not such as Her Majesty's Government has been accustomed either to accord or to submit to. It would find no precedent in the history of British diplomacy, and no provocation in any action or assertion of the Government of the United States.

These views derive great, if not conclusive, force from the action of the British Parliament on the subject, adopted very soon after the treaty of 1818 took effect, and continued without change to the present time.

An act of Parliament (59 George III, chap. 38) was passed June 14, 1818, to provide for carrying into effect the provisions of the treaty. After reciting the terms of the treaty, it enacts (in substance) that it shall be lawful for His Majesty by orders in council to make such regulations and to give such directions, orders, and instructions to the governor of Newfoundland or to any officer or officers in that station, or to any other persons "as shall or may be from time to time deemed proper and necessary for the carrying into effect the purposes of said convention with relation to the taking, drying, and curing of fish by inhabitants of the United States of America, in common with British subjects within the limits set forth in the aforesaid convention."

It further enacts that any foreign vessel engaged in fishing, or preparing to fish, within three marine miles of the coast (not authorized to do so by treaty) shall be seized or forfeited upon prosecution in the proper court.

It further provides as follows:

"That it shall and may be lawful for any fisherman of the said United States to enter into any such bays or harbors of his Britannic Majesty's dominions in America as are last mentioned for the purpose of shelter and repairing damages therein and of purchasing wood and of obtaining water, and for no other purpose whatever, subject nevertheless to such restrictions as may be necessary to prevent such fishermen of the

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and United States from taking, drying, or curing fish in the said bays or harbors, or in any other manner whatever abusing the said privileges by the said treaty and this act reserved to them, and as shall for that purpose be imposed by an order or orders to be from time to time made by His Majesty in council under the authority of this act, and by any regulations which shall be issued by the governor or person exercising the office of governor in any such parts of His Majesty's dominions in America, under or in pursuance of any such an order in council as aforesaid."

It further provides as follows:

"That if any person or persons upon requisition made by the governor of Newfoundland, or the person exercising the office of governor, or by any governor or person exercising the office of governor, in any other parts of His Majesty's dominions in America as aforesaid, or by any officer or officers acting under such governor, or person exercising the office of governor, in the execution of any orders or instructions from His Majesty in council, shall refuse to depart from such bays or harbors; or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this act; every such person so refusing or otherwise offending against this act shall forfeit the sum of £200, to be recovered, &c."

It will be perceived from these extracts, and still more clearly from a perusal of the entire act, that while reciting the language of the treaty in respect to the purposes for which American fishermen may enter British ports, it provides no forfeiture or penalty for any such entry unless accompanied either (1) by fishing or preparing to fish within the prohibited limits, or (2) by the infringement of restrictions that may be imposed by orders in council to prevent such fishing or the drying or curing of fish, or the abuse of privileges reserved by the treaty, or (3) by a refusal to depart from the bays or harbors upon proper requisition.

It thus plainly appears that it was not the intention of Parliament, nor its understanding of the treaty, that any other entry by an American fishing vessel into a British port should be regarded as an infraction of its provisions, or as affording the basis of proceedings against it.

No other act of Parliament for the carrying out of this treaty has ever been passed. It is unnecessary to point out that it is not in the power of the Canadian Parliament to enlarge or alter the provisions of the act of the Imperial Parliament, or to give to the treaty either a construction or a legal effect not warranted by that act.

But until the effort which I am informed is now in progress in the Canadian Parliament for the passage of a new act on the subject, introduced since the seizures under consideration, I do not understand that any statute has ever been enacted in that Parliament which attempts to give any different construction of effect to the treaty from that given by the act of 59 George III.

The only provincial statutes which, in the proceedings against the David J. Adams, that vessel has thus far been charged with infringing are the colonial acts of 1868, 1870, and 1883. It is therefore fair to presume that there are no other colonial acts applicable to the case, and I know of none.

The act of 1868, among other provisions not material to this discussion, provides for a forfeiture of foreign vessels "found fishing, or preparing to fish, or to have been fishing, in British waters within three marine miles of the coast," and also provides a penalty of \$400 against a master of a foreign vessel within the harbor who shall fail to answer questions put in an examination by the authorities. No other act is by this statute declared to be illegal; and no other penalty or forfeiture is provided for.

The very extraordinary provisions in this statute for facilitating forfeitures and embezzlement, defense, or appeal from them, not material to the present case, would, on consideration, deserve very serious attention.

The act of 1883 has no application to the case, except upon the point of the omission of the vessel to report to the customs officer already considered.

It results, therefore, that at the time of the seizure of the David J. Adams and other vessels there was no act whatever, either of the British or colonial parliaments, which made the purchase of bait by those vessels illegal, or provided for any forfeiture, penalty, or proceedings against them for such a transaction, and even if such purchase could be regarded as a violation of that clause of the treaty which is relied upon, no law existed under which the seizure could be justified. It will not be contended that custom-house authorities or colonial courts can seize and condemn vessels for a breach of the stipulations of a treaty when no legislation exists which authorizes them to take cognizance of the subject, or invests them with any jurisdiction in the premises. Of this obvious conclusion the Canadian authorities seem to be quite aware.

I am informed that since the seizures they have pressed or are pressing through the Canadian parliament in much haste an act which is designed for the first time in the history of the legislation under this treaty to make the facts upon which the American vessels have been seized illegal, and to authorize proceedings against them there-

What the effect of such an act will be in enlarging the provisions of an existing treaty between the United States and Great Britain need not be considered here. The question under discussion depends upon the treaty and upon such legislation warranted by the treaty as existed when the seizures took place.

The practical construction given to the treaty down to the present time has been in entire accord with the conclusions thus deduced from the act of Parliament. The British Government has repeatedly refused to allow interference with American fishing vessels, unless for illegal fishing, and has given explicit orders to the contrary.

On the 26th of May, 1870, Mr. Thornton, the British minister at Washington, communicated officially to the Secretary of State of the United States copies of the orders addressed by the British Admiralty to Admiral Wellesley, commanding Her Majesty's naval forces on the North American station, and of a letter from the colonial department to the foreign office, in order that the Secretary might "see the nature of the instructions to be given to Her Majesty's and the Canadian officers employed in maintaining order at the fisheries in the neighborhood of the coasts of Canada." Among the documents thus transmitted is a letter from the foreign office to the secretary of the Admiralty, in which the following language is contained:

"The Canadian Government has recently determined, with the concurrence of Her Majesty's ministers, to increase the stringency of the existing practice of dispensing with the warnings hitherto given, and seizing at once any vessel detected in violating the law.

"In view of this change and of the questions to which it may give rise, I am directed by Lord Granville to request that you will move their lordships to instruct the officers of Her Majesty's ships employed in the protection of the fisheries that they are not to seize any vessel unless it is evident and can be clearly proved that the offense of fishing has been committed and the vessel itself captured within three miles of land."

In the letter from the lords of the Admiralty to Vice-Admiral Wellesley of May 4, 1870, in accordance with the foregoing request, and transmitting the letter above quoted from, there occurs the following language:

"My lords desire me to remind you of the extreme importance of commanding officers of the ships selected to protect the fisheries exercising the utmost discretion in carrying out their instructions, paying special attention to Lord Granville's observation that no vessel should be seized unless it is evident and can be clearly proved that the offense of fishing has been committed, and that the vessel is captured within three miles of land."

Lord Granville, in transmitting to Sir John Young the aforesaid instructions, makes use of the following language:

"Her Majesty's Government do not doubt that your ministers will agree with them as to the propriety of these instructions, and will give corresponding instructions to the vessels employed by them."

These instructions were again officially stated by the British minister at Washington to the Secretary of State of the United States in a letter dated June 11, 1870.

Again, in February, 1871, Lord Kimberly, colonial secretary, wrote to the governor-general of Canada as follows:

"The exclusion of American fishermen from resorting to Canadian ports, except for the purpose of shelter, and of repairing damages therein, purchasing wood, and of obtaining water, might be warranted by the letter of the treaty of 1818, and by the terms of the imperial act 59 George III, chap. 38, but Her Majesty's Government feel bound to state that it seems to them an extreme measure, inconsistent with the general policy of the Empire, and they are disposed to concede this point to the United States Government under such restrictions as may be necessary to prevent smuggling, and to guard against any substantial invasion of the exclusive rights of fishing which may be reserved to British subjects."

And in a subsequent letter from the same source to the governor-general, the following language is used:

"I think it right, however, to add that the responsibility of determining what is the true construction of a treaty made by Her Majesty with any foreign power must remain with Her Majesty's Government, and that the degree to which this country would make itself a party to the strict enforcement of the treaty rights may depend not only on the literal construction of the treaty, but on the moderation and reasonableness with which these rights are asserted."

I am not aware that any modification of these instructions or any different rule from that therein contained has ever been adopted or sanctioned by Her Majesty's Government.

Judicial authority upon this question is to the same effect. That the purchase of bait by American fishermen in the provincial ports has been a common practice is well known. But in no case, so far as I can ascertain, has a seizure of an American vessel ever been enforced on the ground of the purchase of bait, or of any other supplies. On the hearing before the Halifax Fisheries Commission in 1877 this question was

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discussed, and no case could be produced of any such condemnation. Vessels shown to have been condemned were in all cases adjudged guilty, either of fishing, or preparing to fish, within the prohibited limit. And in the case of the *White Fawn*, tried in the admiralty court of New Brunswick before Judge Hazen in 1870, I understand it to have been distinctly held that the purchase of bait, unless proved to have been in preparation for illegal fishing, was not a violation of the treaty, nor of any existing law, and afforded no ground for proceedings against the vessel.

But even were it possible to justify on the part of the Canadian authorities the adoption of a construction of the treaty entirely different from that which has always heretofore prevailed, and to declare those acts criminal which have hitherto been regarded as innocent, upon obvious grounds of reason and justice, and upon common principles of comity to the United States Government, previous notice should have been given to it or to the American fishermen of the new and stringent instructions it was intended to enforce.

If it was the intention of Her Majesty's Government to recall the instructions which I have shown had been previously and so explicitly given relative to the interference with American vessels, surely notice should have been given accordingly.

The United States have just reason to complain, even if these restrictions could be justified by the treaty or by the acts of Parliament passed to carry it into effect, that they should be enforced in so harsh and unfriendly a manner without notice to the Government of the change of policy, or to the fishermen of the new danger to which they were thus exposed.

In any view, therefore, which it seems to me can be taken of this question, I feel justified in pronouncing the action of the Canadian authorities in seizing and still retaining the *David J. Adams* to be not only unfriendly and discourteous, but altogether unwarrantable.

The seizure was much aggravated by the manner in which it was carried into effect. It appears that four several visitations and searches of the vessel were made by boats from the Canadian steamer *Lansdowne*, in Annapolis Basin, Nova Scotia. The *Adams* was finally taken into custody and carried out of the Province of Nova Scotia, across the Bay of Fundy, and into the port of St. John, New Brunswick, and without explanation or hearing, on the following Monday, May 10, taken back by an armed crew to Digby, Nova Scotia. That, in Digby, the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such manner as to prevent its contents being read, and the request of the captain of the *David J. Adams* and of the United States consul-general to be allowed to detach the writ from the mast for the purpose of learning its contents was positively refused by the provincial official in charge. Nor was the United States consul-general able to learn from the commander of the *Lansdowne* the nature of the complaint against the vessel, and his respectful application to that effect was fruitless.

From all the circumstances attending this case, and other recent cases like it, it seems to me very apparent that the seizure was not made for the purpose of enforcing any right or redressing any wrong. As I have before remarked, it is not pretended that the vessel had been engaged in fishing, or was intending to fish in the prohibited waters, or that it had done or was intending to do any other injurious act. It was proceeding upon its regular and lawful business of fishing in the deep sea. It had received no request, and of course could have disregarded no request, to depart, and was, in fact, departing when seized; nor had its master refused to answer any questions put by the authorities. It had violated no existing law, and had incurred no penalty that any known statute imposed.

It seems to me impossible to escape the conclusion that this and other similar seizures were made by the Canadian authorities for the deliberate purpose of harassing and embarrassing the American fishing vessels in the pursuit of their lawful employment. And the injury, which would have been a serious one, if committed under a mistake, is very much aggravated by the motives which appear to have prompted it.

I am instructed by my Government earnestly to protest against these proceedings as wholly unwarranted by the treaty of 1818, and altogether inconsistent with the friendly relations hitherto existing between the United States and Her Majesty's Government; to request that the *David J. Adams*, and the other American fishing vessels now under seizure in Canadian ports, be immediately released, and that proper orders may be issued to prevent similar proceedings in the future. And I am also instructed to inform you that the United States will hold Her Majesty's Government responsible for all losses which may be sustained by American citizens in the dispossession of their property growing out of the search, seizure, detention, or sale of their vessels lawfully within the territorial waters of British North America.

The real source of the difficulty that has arisen is well understood. It is to be found in the irritation that has taken place among a portion of the Canadian people on account of the termination by the United States Government of the treaty of Washington on the 1st of July last, whereby fish imported from Canada into the

United States, and which so long as that treaty remained in force was admitted free, is now liable to the import duty provided by the general revenue laws, and the opinion appears to have gained ground in Canada that the United States may be driven by harassing and annoying their fishermen, into the adoption of a new treaty by which Canadian fish shall be admitted free.

It is not necessary to say that this scheme is likely to prove as mistaken in policy as it is indefensible in principle. In terminating the treaty of Washington the United States were simply exercising a right expressly reserved to both parties by the treaty itself, and of the exercise of which by either party neither can complain. They will not be coerced by wanton injury into the making of a new one. Nor would a negotiation that had its origin in mutual irritation be promising of success. The question now is, not what fresh treaty may or might be desirable, but what is the true and just construction, as between the two nations, of the treaty that already exists.

The Government of the United States, approaching this question in the most friendly spirit, cannot doubt that it will be met by Her Majesty's Government in the same spirit, and feels every confidence that the action of Her Majesty's Government in the premises will be such as to maintain the cordial relations between the two countries that have so long happily prevailed.

I have the honor to be, &c.,

E. J. PHELPS.

No. 62.

Mr. Bayard to Mr. Phelps.

No. 328.]

DEPARTMENT OF STATE,
Washington, June 18, 1890.

SIR; I have received and read with much satisfaction your No. 293 of the 5th instant, inclosing a copy of a note addressed by you on that day to Lord Rosebery, in reference to the seizures of American fishing vessels in Canadian waters, and other interference with our commercial rights.

The views and arguments you adduce are fully in accord with the instructions already sent you, and are so ably advanced and enforced that I have for the present, and pending Lord Rosebery's reply, nothing further to suggest on these points.

I now transmit for your information a copy of a note addressed by me, on the 14th instant, to Sir Lionel West, on the subject of certain verbal notifications not to approach the coasts of Nova Scotia, which, as I have been informed by our consul-general at Halifax, were given to four of our fishing vessels by the subcollector of customs at Canso, and the information from the collector at Halifax that no American fishing vessels would be permitted to land fish at that port for transportation in bond across the province.

In reply to my note, Sir Lionel West informed me that the subject has been brought by him to the notice of Her Majesty's Government.

My notes of the 10th, 20th, and 29th of May last to Sir Lionel West continue without reply, and this, I suppose, is one of the serious impediments to prompt and practical exchange of views which results from the triangular attitude of the United States, the imperial Government of Great Britain, and the American dependencies of the latter power, towards all questions in which the interests of the provinces are involved.

The last note of the British minister, stating that he has brought the attention of Her Majesty's Government to the questions raised by the action of provincial officials will, I hope, be productive of authoritative expression, and afford some solid basis for our judgment and progress.

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No. 85.]

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sive action, which has hitherto been so delayed from the somewhat anomalous relations of the Canadian authorities towards a convention to which they are not actual or responsible parties.

I am, &c.,

T. F. BAYARD.

[Inclosure.]

Mr. Bayard to Sir L. West, June 14, 1886. (See No. 13, p. 16.)

No. 63.

Mr. Bayard to Mr. Phelps.

No. 329.]

DEPARTMENT OF STATE,
Washington, June 18, 1886.

SIR: With reference to previous correspondence concerning the fisheries question, I transmit to you herewith a copy of a dispatch from our consul at Halifax, in relation to the recent instructions to Canadian officials concerning American fishing vessels.

I am, &c.,

T. F. BAYARD.

[Inclosure.]

Mr. Phelan to Mr. Porter.

No. 85.]

UNITED STATES CONSULATE-GENERAL,
Halifax, June 15, 1886. [Received June 18.]

SIR: I have the honor to report that I sent with dispatch No. 83, dated May 27, 1886, a circular issued by J. Johnson, Esq., Canadian commissioner of customs, known as Circular No. 371, dated May 7, 1886, containing instructions to customs collectors concerning foreign fishing vessels. I now inclose herewith a confidential circular of the same date and number issued by the same officer, with a note saying "that the confidential circular was to be substituted for the one of the same date and number previously received."

It will be seen by comparing the circulars that the two last paragraphs in the first circular issued are stricken out and the following substituted in lieu thereof:

"Having reference to the above you are requested to furnish every foreign fishing vessel, boat, or fisherman found within three marine miles from shore with a copy of the warning inclosed herewith. If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or 'f' hovering within the three-mile limit, does not depart within twenty-four hours after receiving such warning, you will place an officer on board such vessel and at once telegraph the facts to the fisheries department at Ottawa and await instructions."

Everything about shipping crews, purchasing supplies, and trading is eliminated in the confidential circular.

I am, &c.,

M. H. PHELAN,
Consul-General.

[Inclosure with Mr. Phelan's, No. 85.]

Confidential Circular No. 371.

CUSTOMS DEPARTMENT,

Ottawa, May 7, 1886.

ST. 1: The Government of the United States having by notice terminated article 18 to 25, both inclusive, and article 30, known as the fishery articles of the Washington treaty, attention is called to following provision of the convention between the United States and Great Britain, signed at London on the 20th October, 1818:

"ARTICLE 1. Whereas, differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors and creeks, of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks, from Mount Joly on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground.

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of his Britannic Majesty's dominions in America, not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is also called to the following provisions of the act of the Parliament of Canada, cap. 61 of the acts of 1868, entitled "An act respecting fishing by foreign vessels":

(2) "Any commissioned officer of Her Majesty's navy, serving on board of any vessel of Her Majesty's navy, cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, and stay on board as long as she may remain within such place or distance."

(3) "If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination he shall forfeit \$400; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

(4) "All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo liable to forfeiture under this act, may be seized and secured by any officers or persons mentioned in the second section of this act; and every person opposing any officer or person in the execution of his duty under this act, or aiding or abetting any other person in any opposition, shall forfeit \$800, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years."

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No. 369.]

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[Inclosure]

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JULY 24, 1886.—

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Having reference to the above, you are requested to furnish any foreign fishing vessels, boats, or fishermen found within three marine miles of the shore, within your district, with a printed copy of the "warning" inclosed herewith. If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or, if hovering within the three-mile limit, does not depart within twenty-four hours after receiving such "warning," you will please place an officer on board such vessel and at once telegraph the facts to the fisheries department at Ottawa and await instructions.

J. JOHNSON,
Commissioner of Customs.

No. 64.

Mr. Bayard to Mr. Phelps.

No. 369.]

DEPARTMENT OF STATE,
Washington, July 29, 1886.

SIR: I transmit to you, herewith, copies of the President's message of the 24th instant, to the Senate, relative to seizures and detentions of American vessels in Canadian waters.

I am, &c.,

T. F. BAYARD.

[Inclosure with No. 369.—Senate Ex. Doc. No. 217, Forty-ninth Congress, first session.]

Message from the President of the United States, transmitting, in response to Senate resolutions of May 10 and July 10, 1886, a report of the Secretary of State relative to seizure and detentions of United States vessels in Canadian waters.

JULY 24, 1886.—Read and referred to the Committee on Foreign Relations and ordered to be printed

To the Senate of the United States:

In response to the resolutions of the Senate dated, respectively, May 10 and July 10, 1886, touching alleged seizures and detentions of vessels of the United States in British North American waters, I transmit herewith a report of the Secretary of State, with accompanying papers.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, July 24, 1886.

To the President:

Responding to the accompanying resolutions, of the respective dates of May 10 and July 10, 1886, adopted by the Senate of the United States, and which were referred by the President to this Department, the undersigned, Secretary of State, has the honor to reply:

That the list herunto appended gives all the cases of seizure or detention of American vessels in foreign ports since January 1, 1886, of which the Department of State has been informed; and, as it will be observed, no other cases of such seizure or detention have occurred than those in the ports of the Dominion of Canada, and under the alleged authority of the officials of that Government.

All of the vessels so seized or detained were vessels licensed for fishing under the laws of the United States.

They have all been released excepting the schooner David J. Adams, of Gloucester, Mass., which is still held in custody at Digby, Nova Scotia, her owners not having sought to procure her release by giving bond.

The period for which each vessel was detained and the terms upon which they were respectively released are stated in the appended list.

Instantly upon receiving authentic information of an alleged seizure from the owners of the vessels or their agents, or from the consular officers of the United States in Canada, this Department gave instructions to the United States consular officers to

make full and careful investigation of the facts in each case; and wherever an infraction of treaty rights or the commercial rights and privileges of citizens of the United States appeared to have occurred, representation was promptly made to Her Britannic Majesty's minister at this capital, calling for redress, and notification given of demand for compensation for all loss and injury to the vessels in question and their owners.

In order properly to assert and maintain the rights of our citizens and our international rights under conventions and by the law of nations which might be brought in question by these proceedings and by the action of the Canadian Government, the professional services of two gentlemen learned in the law—Mr. George W. Biddle, of the city of Philadelphia, and Mr. William L. Putnam, of the city of Portland, in Maine—were retained by the Executive; and since the 20th of May last these gentlemen have bestowed their careful consideration upon the circumstances and the law in connection therewith in each case.

Proceedings have been commenced in the vice-admiralty court at Halifax, Nova Scotia, in the name of Her Majesty the Queen as plaintiff, against the schooner David J. Adams and the schooner Ella M. Doughty in both of which cases the complaint is substantially the same. Copy is herewith appended of the complaint signed by the solicitor for the attorney-general of the Dominion of Canada against the Ella M. Doughty, which sets forth at length the alleged grounds for the seizure and detention of that vessel.

Concurrently with these events, correspondence has begun and is still proceeding between this Department and the British minister at this capital, and also between the minister of the United States in London and the foreign office of Her Britannic Majesty's Government, to obtain satisfactory recognition and enforcement of our rights under treaty and international law and the laws and commercial usages of both countries, which are brought in question by the action of the Canadian authorities in making the seizures and detentions of American fishing vessels herein referred to and described.

Pending this correspondence, which it is believed must soon terminate in an amicable settlement mutually just and honorable, and, therefore, satisfactory to both countries and their inhabitants, the undersigned is unable to recommend the President to communicate its contents in its present incomplete status, believing that to do so would not be compatible with the public interests as connected with the transactions referred to.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,
Washington, July 24, 1886.

[List of inclosures.]

1. Resolution of the Senate of the United States, May 10, 1886.
2. Resolution of the Senate of the United States, July 10, 1886.
3. List of vessels of the United States seized or detained since January 1, 1886.
4. Text of the complaint filed by Her Britannic Majesty's Government against the Ella M. Doughty (with a letter from William L. Putnam, dated July 13, 1886).

No. 1.

IN THE SENATE OF THE UNITED STATES.

May 10, 1886.

Resolved, That the President be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, any information in the possession of the Government concerning the alleged seizure of the United States fishing vessel David J. Adams while engaged in lawful commerce in one of the ports in the Dominion of Canada, and what measures, if any, have been taken to protect fishing vessels of the United States while engaged in lawful commerce in the ports of the Dominion of Canada.

Attest:

ANSON G. MCCOOK,

Secretary.

By CHAS. W. JOHNSON,

Chief Clerk.

No. 2.

IN THE SENATE OF THE UNITED STATES,
July 10, 1886.

Resolved, That the President of the United States be requested, so far as in his opinion it may not be inconsistent with the public interest, to inform the Senate of all facts in his possession or that of the Department of State in regard to the seizure or detention in any foreign ports of any American vessels since January 1, 1886, and the pretext or alleged causes for such seizure, and all correspondence relating to the same, and what efforts have been made to procure redress for such seizures, and to prevent the recurrence thereof.

Attest:

ANSON G. MCCOOK,
Secretary.

No. 3.

List of American fishing vessels seized by the authorities of Canada in the year 1886.

Vessel.	Home port.	Master.	Seized.	Where seized.
			1886.	
* David J. Adams	Newburyport, Mass.	Ahlon Kinney	May 7	Digby, N. S.
Ellis M. Doughty	Kennebunk, Me.	Warren A. Doughty	May 17	Englestown, C. B.
May Point	Booth Bay, Me.	Stephen Keene	July 3	Shelburne, N. S.
George W. Cushing	Bath, Me.	C. B. Jewett	July 3	Do.
C. B. Harrington	Portland, Me.	John Frellick	July 3	Do.

* Owners refuse to bond. Vessel still in custody.

† Released June 10. Bail, \$3,400. Proceedings for remission.

‡ Released on payment of \$400, alleged fine.

List of American fishing vessels detained by the authorities of Canada in the year 1886.

Vessel.	Home port.	Master.	Date.	Released.
* Joseph Storey	Essex, Mass. ....	.....	April 24, 1886, at Baddeck.	Apr. 25, 1886.
* Matthew Kenny	Bath, Me. ....	.....	.....	.....
Hereward	Essex, Mass.	McDonald	July 3, 1886, at Capreol.	.....

* Detained 24 hours.

No. 4.

[Inclosure A.]

No. 473. In the vice-admiralty court at Halifax.

HER MAJESTY THE QUEEN, PLAINTIFF,
against
THE SHIP OR VESSEL ELLA M. DOUGHTY
AND HER CARGO, DEFENDANTS.

Action for forfeiture of the said vessel and her cargo for violation of a certain convention between his late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, of the one part, and the United States of America, of the other part, made on the 20th day of October, 1818, and for violation of the act of the Parliament of the United Kingdom of Great Britain and Ireland, made and passed in the fifty-ninth year of the reign of his late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, being chapter 38 of the acts of the said last-mentioned Parliament, made and passed in the said year. Also, for forfeiture of the said

UNITED STATES,
May 10, 1886.
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Secretary.
JOHNSON,
Chief Clerk.

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of the United Kingdom of Great Britain and Ireland, and now of Her Majesty Queen Victoria, Queen of the United Kingdom of Great Britain and Ireland, and not included or lying on that part of the southern coast of Newfoundland, and which extends [from] Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland, and from the said cape to the Qirpon Islands, on the shores of the Magdalen Islands, or on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the straits of Belle Isle, and thence northwardly indefinitely along the coast.

7. That the said ship Ella M. Doughty, whereof one Warren A. Doughty, who was not a natural-born subject of Her Majesty, was or is master, is a foreign ship or vessel not navigated according to the laws of Great Britain and Ireland, or according to the laws of Canada, but was and is a ship of the United States of America owned by foreigners; that is to say, by persons residing in and being citizens of the United States of America, where the said ship or vessel was built and enrolled, and the said ship or vessel Ella M. Doughty was at the time hereinafter mentioned licensed and permitted to carry on the fisheries under and in pursuance of the acts of the United States of America, and was engaged in the prosecution of the fisheries and on a fishing voyage, and was and is without a license to fish or any license whatsoever in that behalf from the Government of Canada or of Nova Scotia under the statutes of Canada or of Nova Scotia in that behalf.

8. Between the 10th and 17th days of May, 1886, the said Warren A. Doughty, the master of the said ship or vessel Ella M. Doughty, and the officers and crew of the said ship or vessel Ella M. Doughty, did in and with the said ship or vessel Ella M. Doughty enter into the bay and harbor of St. Anne's aforesaid within three marine miles of the shore of said bay and harbor of St. Anne's, and within three miles of the coasts, bays, creeks, and harbors of those portions of the dominions in America of his said late Majesty King George the Third, being now the dominions in America of Her Majesty Queen Victoria not included in the limits specified and defined in the said first article of the said convention and set out and recited in the first paragraph hereof, for the purpose of procuring bait, that is to say, herrings, wherewith to fish, and ice for the preservation on board said vessel of bait to be used in fishing and of fresh fish to be fished for, taken, and caught by and upon the said vessel and by the master, officers, and crew thereof, and did procure such bait wherewith to fish, and such ice for the purposes aforesaid, and did so enter for other purposes than for the purposes of shelter or repairing damages, or of purchasing wood or of obtaining water, contrary to the provisions of the said convention and of the said several acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized within three marine miles of the coast or shores of the said bay and harbor of St. Anne's by Donald McAuley and Lanchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for the breach or violation of the said convention and of the said several acts.

9. The said Warren A. Doughty, the master of the said ship or vessel Ella M. Doughty, and the officers and crew of the said ship or vessel Ella M. Doughty, did, between the 10th and 17th days of May, 1886, and subsequently, in the said ship or vessel Ella M. Doughty, in the bay and harbor of St. Anne's aforesaid, did, and while there and they and the said ship or vessel Ella M. Doughty were within three marine miles of the coasts or shores of the said bay and harbor of St. Anne's, and within three marine miles of the coasts, shores, bays, creeks, and harbors of those portions of the dominions in America of his said late Majesty King George the Third, being now the dominions in America of Her Majesty Queen Victoria not included within the limits specified and defined in the said first article of the said convention and set out and recited in the said first paragraph hereof, fish for fish and take fish, and did dry and cure fish, and were preparing to fish within the meaning of the said convention, and of the said several acts hereinbefore mentioned, contrary to the provisions of the said convention and of the said acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized, within three marine miles of the coast or shores of the said bay and harbor of St. Anne's, by Donald McAuley and Lanchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for violation of the said convention and of the said several acts.

10. The said Warren A. Doughty, the master of the said ship or vessel Ella M. Doughty, and the officers and crew of the said ship or vessel Ella M. Doughty, were between the said 10th and 17th days of May, 1886, and subsequently, in the said ship or vessel Ella M. Doughty in the bay and harbor of St. Anne's aforesaid, and while there and they were within 3 marine miles of the coasts, shores, bays, creeks, and harbors of those portions of the dominions in America of his late Majesty King George the Third, being now the dominions in America of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first article of the said convention, and set out and recited in the first paragraph hereof, preparing to fish within the meaning of the convention and of the said convention and of the several acts hereinbefore mentioned, contrary to the provisions of the said convention and of the said several acts, and of the said vessel Ella M. Doughty and her cargo were thereupon seized

ing a portion of the dominions in America formerly of his late Majesty King George Third, and now of Her Majesty Queen Victoria, not included in the limits specified and defined in the said first article of the said convention, and set out and recited in the said first paragraph hereof, fish for fish, take fish, and dry and cure fish, and were preparing to fish within the meaning of the said convention and of the said several acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized, within 3 marine miles of the coasts or shores of the said Province of Nova Scotia, by Donald McAuley and Lauchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for breach or violation of the said convention and of the said several acts.

16. During the months of April and May, 1886, the said Warren A. Doughty, the master of the said ship or vessel Ella M. Doughty, and the officers and crew of the said ship or vessel Ella M. Doughty, were in the said ship or vessel Ella M. Doughty, and while so and they and the said ship or vessel Ella M. Doughty were within 3 marine miles of the coasts, bays, creeks, and harbors of the Province of Nova Scotia, a portion of the dominions in America formerly of his late Majesty King George Third, and now of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first article of the said convention set out and recited in the first paragraph hereof, preparing to fish within the meaning of the said convention and of the several acts hereinbefore mentioned, contrary to the provisions of the said convention and of the said several acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized, within 3 miles of the coasts or shores of the said Province of Nova Scotia, by Donald McAuley and Lauchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for violation of the said convention and of the said several acts.

The Hon. John S. D. Thompson, Her Majesty's attorney-general for the Dominion of Canada, on behalf of Her Majesty the Queen, claims the condemnation of the said ship and her cargo and her guns, ammunition, tackle, apparel, furniture, and stores in violation of the said convention and of the said several acts.

WALLACE GRAHAM,

Solicitor for the Attorney-General of Canada.

No. 65.

Mr. Bayard to Mr. Phelps.

DEPARTMENT OF STATE,

Washington, July 30, 1886.

SIR: Notwithstanding the express language of Article I of the convention between the United States and Great Britain, concluded October 20, 1818, by which it is provided that the inhabitants of the two contracting countries "shall have forever in common * * * the liberty to take fish of every kind" on certain coasts therein described, and, as part thereof, "on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands on the western and northern coast of Newfoundland; from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coast, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company," I have to-day received the sworn statements of the captain of an American fishing vessel, the Thomas F. Bayard, of Gloucester, Mass., to the effect that he has been hindered of his lawful rights, so expressly secured by the convention referred to, "to take fish of every kind" in the harbor of Bonne Bay, on the western coast of Newfoundland and within the geographical limits hereinbefore stated.

I enclose a copy of the affidavit and likewise of the formal notice referred by the master of the Thomas F. Bayard from the customs officials at Bonne Bay, whereby, to avoid the seizure of his vessel by the local au-

thority of Newfoundland, he was compelled to abstain from the exercise of his lawful right to obtain fish for bait to be used in the open-sea fishing, and to break up his voyage and return home, thus suffering great loss.

The affidavit of Captain McEachern, of the American schooner *Macot*, of Gloucester, Mass., which I hand you herewith, discloses the fact of the threat of the customs officials at Port Amherst, in the Magdalen Islands, to seize his vessel should he there obtain fresh fish for bait, although those islands are expressly designated and included in the region wherein the liberty forever to take fish of every kind is expressly secured by the convention of 1818.

Previous attempts or suggestions have been made by the local authorities of Newfoundland to inhibit the purchase or sale of fresh fish for use as bait, and the same have been distinctly disapproved by Her Majesty's Government, notably by the Duke of Newcastle, when secretary of state for the colonies, in his dispatch of August 3, 1863, to the governor of Newfoundland, Sir A. Bannerman, a copy of which you will find at page 111 in the public document (Ex. Doc. No. 84, House of Representatives, Forty-sixth Congress, second session) sent you by this mail.*

You will please draw the attention of Her Majesty's secretary of state for foreign affairs (Lord Iddesleigh) to these infractions of treaty rights, and request that such instructions may be promptly issued to the Newfoundland officials as will prevent a recurrence of such wrong to the lawful pursuits of American citizens; and you will also notify his lordship that remuneration for the damages incurred by the vessels and their owners in the cases referred to in this instruction will be claimed on behalf of the sufferers, so soon as the amount is accurately ascertained.

I am, &c.,

T. F. BAYARD.

[Inclosures.]

1. Ex. Doc. No. 84, House of Representatives, Forty-sixth Congress, second session (not reprinted herewith).

2. Mr. Woodbury to Mr. Bayard, Boston, July 28, 1886, with inclosures. (See No. 96, p. 187.)

No. 66.

Mr. Phelps to Mr. Bayard.

No. 351.]

LEGATION OF THE UNITED STATES,
London, September 13, 1886. [Received September 27.]

SIR: I have the honor to transmit to you herewith a copy of a note sent by me to Lord Iddesleigh, Her Majesty's secretary of state for foreign affairs, under date of September 11, 1886, on the subject of the Canadian fisheries.

And I have, &c.,

E. J. PHELPS.

* This document comprises the correspondence in relation to the *Fortuna* occurrences.

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[Inclosure No. 1, with Mr. Phelps's No. 351.]

*Mr. Phelps to Lord Iddesleigh.*LEGATION OF THE UNITED STATES,
London, September 11, 1886.

MY LORD: I have the honor to acknowledge the receipt of your note of September 1, on the subject of the Canadian fisheries.

I received also on the 16th of August, last, from Lord Rosebery, then foreign secretary, a copy of a note on the same subject, dated July 23, 1886, addressed by his Lordship, through the British minister at Washington, to Mr. Bayard, the Secretary of State of the United States, in reply to a note from Mr. Bayard to the British minister of May 10, and also to mine addressed to Lord Rosebery under date of June 2. The retirement of Lord Rosebery from office immediately after I received his note, prevented a continuance of the discussion with him. And in resuming the subject with your lordship, it may be proper to refer both to Lord Rosebery's note and to your own. In doing so I repeat in substance considerations expressed to you orally in recent interviews.

My note to Lord Rosebery was confined to the discussion of the case of the *David Adams*, the only seizure in reference to which the details had then been fully made known to me. The points presented in my note, and the arguments in support of them, need not be repeated.

No answer is attempted in Lord Rosebery's reply. He declines to discuss the questions involved on the ground that they are "now occupying the attention of the courts of law in the Dominion, and may possibly form the subject of an appeal to the judicial committee of Her Majesty's privy council in England."

He adds:

"It is believed that the courts in Canada will deliver judgment in the above cases very shortly, and until the legal proceedings now pending have been brought to a conclusion, Her Majesty's Government do not feel justified in expressing an opinion upon them, either as to facts or the legality of the action taken by the colonial authorities."

And your lordship remarks, in your note of August 24, "it is clearly right, according to practice and precedent, that such diplomatic action should be suspended pending the completion of the judicial inquiry."

This is a proposition to which the United States Government is unable to accede.

The seizures complained of are not the acts of individuals claiming private rights which can be dealt with only by judicial determination, or which depend upon facts that need to be ascertained by judicial inquiry. They are the acts of the authorities of Canada, who profess to be acting, and in legal effect are acting, under the authority of Her Majesty's Government. In the report of the Canadian minister of marine and fisheries, which is annexed to and adopted as a part of Lord Rosebery's note, it is said:

"The colonial statutes have received the sanction of the British sovereign who, and not the nation, is actually the party with whom the United States made the convention. The officers who are engaged in enforcing the acts of Canada, or the laws of the Empire, are Her Majesty's officers, whether their authority emanates directly from the Queen or from her representative, the governor-general."

The ground upon which the seizures complained of are principally justified is the allegation that the vessels in question were violating the stipulations of the treaty between the United States and Great Britain. This is denied by the United States Government. The facts of the transaction are not seriously in dispute, and, if they were, could be easily ascertained by both Governments without the aid of the judicial tribunals of either, and the question to be determined is the true interpretation of the treaty as understood, and to be administered between the high contracting parties.

The proposition of Her Majesty's Government amounts to this, that before the United States can obtain consideration of their complaint that the Canadian authorities without justification have seized and are proceeding to confiscate American vessels, the result of the proceedings in the Canadian courts, instituted by the captors as the means of the seizures, must be awaited, and the decision of that tribunal on the international questions involved obtained.

The interpretation of a treaty when it becomes the subject of discussion between two governments is not, I respectfully insist, to be settled by the judicial tribunals of either. That would be placing its construction in the hands of one of the parties to it. It can only be interpreted for such a purpose by the mutual consideration and agreement which were necessary to make it. Questions between individuals arising upon the terms of a treaty may be for the courts to which they resort to adjust.

Questions between nations as to national rights secured by treaty are of a very different character and must be solved in another way.

The United States Government is no party to the proceedings instituted by the British authorities in Canada. Nor can it consent to become a party. The proceedings themselves are what the United States complain of as unauthorized, as well as unfriendly. It would be inconsistent with the dignity of a sovereign power to become a party to such proceedings, or to seek redress in any way in the courts of another country for what it claims to be the violation of treaty stipulations by the authorities of that country.

Still less could it consent to be made indirectly a party to the suits by being required to await the result of such defense as the individuals whose property is implicated may be able and may think proper to set up.

Litigation of that sort may be indefinitely prolonged. Meanwhile fresh seizures of American vessels upon similar grounds are to be expected, for which redress would in like manner await the decisions of the local tribunals, whose jurisdiction the captors invoke and the United States Government denies.

Nor need it be again pointed out, how different may be the question involved between the Governments from that which these proceedings raise in the Canadian courts. Courts in such cases do not administer treaties. They administer only the statutes that are passed in pursuance of treaties. If a statute contravene the provisions of a treaty, British courts are nevertheless bound by the statute. And if, on the other hand, there is a treaty stipulation which no statute gives the means of enforcing, the court cannot enforce it.

Although the United States Government insists that there is no British or colonial act authorizing the seizures complained of, if the British courts should nevertheless find such authority in any existing statute, the question whether the statute itself or the construction given it is warranted by the treaty would still remain. And also the still higher question, whether if the strict technical reading of the treaty might be thought to warrant such a result, it is one which ought to be enforced between sovereign and friendly nations acting in the spirit of the treaty.

The United States Government must therefore insist that, irrespective of the future result of the Canadian legal proceedings, the authority and propriety of which is the subject of dispute, and without waiting their conclusion, it is to Her Majesty's Government it must look for redress and satisfaction for the transactions in question, and for such instructions to the colonial authority as will prevent their repetition.

While, as I have observed, Lord Rosebery declines to discuss the question of the legality of these seizures, the able and elaborate report on the subject from the Canadian minister of marine and fisheries, which is made a part of it, attempts in very general terms to sustain their authority. He says:

"It is claimed that the vessel (the David J. Adams) violated the treaty of 1813, and consequently the statutes which exist for the enforcement of the treaty."

It is not clear from this language whether it is meant to be asserted that if an act, otherwise lawful, is prohibited by a treaty, the commission of the act becomes a violation of a statute which has no reference to it, if the statute was enacted to carry out the treaty, or whether it is intended to say that there was in existence, prior to the seizure of the vessel in question, some statute which did refer to the act complained of and did authorize proceedings or provide a penalty against American fishing vessels for purchasing bait or supplies in a Canadian port to be used in lawful fishing.

The former proposition does not seem to require refutation. If the latter is intended, I have respectfully to request that your lordship will have the kindness to direct a copy of such act to be furnished to me. I have supposed that none such existed, and neither in the report of the Canadian minister, nor in the customs circulars or warnings thereto appended, in which attention is called to the various legislation on the subject, is any such act pointed out.

The absence of such statute provision either in the act of Parliament (59 Geo. III. c. 38) or in any subsequent colonial act, is not merely a legal objection, though quite sufficient one, to the validity of the proceedings in question. It affords the most satisfactory evidence that up to the time of the present controversy no such construction has been given to the treaty by the British or by the colonial parliament, as is now sought to be maintained.

No other attempt is made in the report of the Canadian minister to justify the legality of these seizures.

It is apparent from the whole of it that he recognizes the necessity of the proposed enactment of the act of the Canadian Parliament already alluded to in order to sustain them.

This remark is further confirmed by the communication from the Marquis of Lansdowne, governor-general of Canada, to Lord Granville, in reference to that act, annexed by Lord Rosebery to his second note to the British minister of July 23, 1886, a copy of which was sent me by his lordship, in connection with his other note of same date above referred to.

I do not observe upon other points of the minister's report not bearing upon the point of note to Lord Rosebery. So far as they relate to the communications addressed to

the British minister as may be seen in various provincial authorities.

Some of these possessors of alleged technical knowledge intended or contemplated regulations have been announced of Fundy, the last of which have been prevented at this time to protest against.

To two recent men, of a somewhat to ask your lordship.

These vessels secured to America on the northwestern side of the island.

For this purpose having reported similar attempts on board a pilot boat, and the twenty-four hours to break up the copies of the affidavit.

Your lordship in these waters fishermen into the hands of the Canadian vessels, has no appeal were excluded.

against curing the vessels excluded.

The conduct merely unfriendly treaty. And in the owners of the behalf as soon as it will be obsolete.

It will be obsolete authorities is being disregarded of treaty. The forbearance appear to have provincial government by an anxious desire the interposition transactions come.

The subject has attracted attention in my former report. The proposal in regard upon the subject the basis of mutual and receive serious of the United States the prospect that its control now greatly to diminish them is the irritant Government, and forced upon the United States.

It seems apparent that the subject of the various of the existing

the British minister by Mr. Bayard, the Secretary of State will doubtless make such reply as may seem to him to be called for.

In various other instances American vessels have been seized or driven away by the provincial authorities when not engaged or proposing to engage in any illegal employment.

Some of these cases are similar to that of the *Adams*, the vessels having been taken possession of for purchasing bait or supplies to be used in lawful fishing, or for alleged technical breach of custom-house regulations, where no harm was either intended or committed, and under circumstances in which for a very long time such regulations have been treated as inapplicable.

In other cases, an arbitrary extension of the three-mile limit fixed by the treaty has been announced so as to include within it portions of the high sea, such as the Bay of Fundy, the Bay of Chaleur, and other similar waters, and American fishermen have been prevented from fishing in those places by threats of seizure. I do not propose at this time to discuss the question of the exact location of that line. But only to protest against its extension in the manner attempted by the provincial authorities.

To two recent instances of interference by Canadian officers with American fishermen, of a somewhat different character, I am specially instructed by my Government to ask your lordship's attention, those of the schooners *Thomas F. Bayard* and *Mascot*.

These vessels were proposing to fish in waters in which the right to fish is expressly secured to Americans by the terms of the treaty of 1818; the former in *Bonne Bay*, on the northwest coast of Newfoundland, and the latter near the shores of the *Magdalen Islands*.

For this purpose the Bayard attempted to purchase bait in the port of *Bonne Bay*, having reported at the custom-house and announced its object. The *Mascot* made a similar attempt at *Port Amherst* in the *Magdalen Islands*, and also desired to take on board a pilot. Both vessels were refused permission by the authorities to purchase bait, and the *Mascot* to take a pilot, and were notified to leave the ports within twenty-four hours on penalty of seizure. They were therefore compelled to depart, to break up their voyages, and to return home, to their very great loss. I append copies of the affidavits of the masters of these vessels, stating the facts.

Your lordship will observe, upon reference to the treaty, not only that the right to fish in these waters is conferred by it, but that the clause prohibiting entry by American fishermen into Canadian ports, except for certain specified purposes, which is relied on by the Canadian Government in the cases of the *Adams* and of some other vessels, has no application whatever to the ports from which the Bayard and the *Mascot* were excluded. The only prohibition in the treaty having reference to those ports is against curing and drying fish there, without leave of the inhabitants, which the vessels excluded had no intention of doing.

The conduct of the provincial officers toward these vessels was therefore not merely unfriendly and injurious, but in clear and plain violation of the terms of the treaty. And I am instructed to say that reparation for the losses sustained by it to the owners of the vessels will be claimed by the United States Government on their behalf as soon as the amount can be accurately ascertained.

It will be observed that interference with American fishing vessels by Canadian authorities is becoming more and more frequent, and more and more flagrant in its disregard of treaty obligations and of the principles of comity and friendly intercourse. The forbearance and moderation of the United States Government in respect to them appear to have been misunderstood and to have been taken advantage of by the provincial government. The course of the United States has been dictated, not only by an anxious desire to preserve friendly relations, but by the full confidence that the interposition of Her Majesty's Government would be such as to put a stop to the transactions complained of, and to afford reparation for what has already taken place. The subject has become one of grave importance, and I earnestly solicit the immediate attention of your lordship to the question it involves, and to the views presented in my former note and in those of the Secretary of State.

The proposal in your lordship's note that a revision of the treaty stipulations bearing upon the subject of the fisheries should be attempted by the Government, upon the basis of mutual concessions is one that under other circumstances would merit and receive serious consideration. Such a revision was desired by the Government of the United States before the present disputes arose, and when there was a reasonable prospect that it might have been carried into effect. Various reasons not within its control now concur to make the present time inopportune for that purpose, and greatly to diminish the hope of a favorable result to such an effort. Not the least of them is the irritation produced in the United States by the course of the Canadian Government, and the relief thereby engendered that a new treaty is attempted to be forced upon the United States Government.

It seems apparent that the questions now presented and the transactions that are the subject of present complaint must be considered and adjusted upon the provisions of the existing treaty, and upon the construction that is to be given to them.

A just construction of these stipulations, and such as would consist with the dignity, the interests, and the friendly relations of the two countries, ought not to be difficult, and can doubtless be arrived at.

As it appears to me very important to these relations that the collisions between the American fishermen and the Canadian officials should terminate, I suggest to your lordship whether an *ad interim* construction of the terms of the existing treaty cannot be reached by mutual understanding of the Governments, to be carried out informally by instructions given on both sides, without prejudice to ultimate claims of either, and terminable at the will of either, by which the conduct of the business can be so regulated for the time being as to prevent disputes and injurious proceedings until a more permanent understanding can be had.

Should this suggestion meet with your lordship's approval, perhaps you may be able to propose an outline for such an arrangement.

I am not prepared nor authorized to present one at this time, but may hereafter be instructed to do so if the effort is thought advisable.

I have, &c.

E. J. PHELPS.

[Inclosure No. 2 with Mr. Phelps's No. 351.]

Sworn statement of James McDonald, master of the Thomas F. Bayard, dated July 23, 1886, with accompanying notice served on him by N. N. Taylor, officer of customs, dated July 12, 1886.

UNITED STATES OF AMERICA,
Commonwealth of Massachusetts :

I, James McDonald, of Gloucester, on my oath do say I am master and part owner of the schooner Thomas F. Bayard, a licensed vessel of the United States; that she sailed with a permit to trade from Gloucester June 22, on a trip for halibut. We fished on the northwest coast of Newfoundland, near Bonne Bay, where, my supply of bait being exhausted, I ran into the port July 12 and reported at the custom-house, stating to the collector that my purpose was to buy bait. The collector immediately served me with the notice hereto appended and made part of this affidavit. I had with me a copy of the Canadian Warning of March 5, 1886, which contained the clause 2 of the treaty of 1818. This I showed to the collector and argued that I had the right under the treaty there set out. In substance his reply was that he had an official duty to perform and would not permit me.

Fearing that my vessel would be seized should I remain or should I buy bait or take it, I determined to return to Gloucester, as my trip was broken up by reason of these threats in the notice and the action of the collector in refusing to recognize the rights secured to my vessel by the treaty. I arrived in Gloucester July 26. I say great losses and damages have inured to said vessel, her owner, and crew by reason of being warned off said coast and said Bonne Bay, as will be duly made to appear.

JAMES McDONALD.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk ss :

BOSTON, July 23, 1886.

Then personally appeared the above-named James McDonald and made oath that the foregoing statement by him subscribed is true.

CHARLES G. CHICK,
Justice of the Peace.

[Inclosure No. 3 with Mr. Phelps's No. 351.]

Mr. Taylor to Captain McDonald.

BONNE BAY, July 12, 1886.

SIR: I am instructed to give you notice that the presence of your vessel in the port is in violation of the articles of the international convention of 1818 between Great Britain and the United States, in relation to fishery rights on the coast of Newfoundland, and of the laws in force in this country for the enforcement of the articles

of the convention with further violation I am, &c.

Capt. JAMES

Sworn statement

STATE OF MASS

Be it known Aaron Parsons, master of the schooner of the 10th day of June, 1886, who forbade right to enjoy that I wanted to was good. He would seize (SEAL.) Before me.

No. 414.]

SIR: I transmit Bayard's note reported action Canso, in three with seizure in reply to said note I am, &c.

1. Mr. Bayard
2. Sir L. West

of the convention, and that the purchase of bait or ice, or other transaction in connection with fishery operations, within 3 miles of the coasts of this colony, will be in further violation of the terms of said convention and laws.

I am, &c.,

N. N. TAYLOR,
Officer of Customs.

Capt. JAMES McDONALD,
Schooner Thomas F. Bayard.

[Inclosure No. 4 with Mr. Phelps's No. 351.]

Sworn statement of Alexander McEachern, master of the Mascot, dated July 27, 1886.

STATE OF MASSACHUSETTS,
County of Essex:

GLOUCESTER, July 27, 1886.

Be it known that on the 27th day of July, in the year of our Lord 1886, before me, Aaron Parsons, a notary public, duly commissioned and sworn, and dwelling at Gloucester, in the county and State aforesaid, personally appeared Alexander McEachern, master of the schooner called Mascot, of this port, who deposes and says: That on the 10th day of June, 1886 A. D., I went into Port Amherst, Magdalen Islands, for the purpose of buying bait, but as soon as I went ashore I was met by the custom-house officials, who forbid me from so doing, stating they would seize my vessel, and I had no right to enjoy any privileges here except to get wood and water. I informed him that I wanted to take a pilot so I could find a spot where I was informed the fishing was good. He also said if I shipped such pilot or laid in port over twenty-four hours he would seize my vessel.

[SEAL.]

ALEX. MCEACHERN

Before me.

AARON PARSONS, N. P.

No. 67.

Mr. Porter to Mr. Phelps.

No. 414.]

DEPARTMENT OF STATE,
Washington, September 29, 1886.

SIR: I transmit to you herewith, for your information, a copy of Mr. Bayard's note of the 23d instant, to Sir Lionel West, concerning the reported action of the customs officers at Sheep Creek, in the Straits of Canso, in threatening the American fishing schooner A. R. Crittenden with seizure if she took in water. Also a copy of Sir Lionel West's reply to said note.

I am, &c.,

JAS. D. PORTER,
Acting Secretary.

[Inclosure.]

1. Mr. Bayard to Sir L. West, September 23, 1886. (See No. 40, p. 47.)
2. Sir L. West to Mr. Bayard, September 25, 1886. (See No. 41, p. 48.)

No. 68.

Mr. Phelps to Mr. Bayard.

No. 372.]

LEGATION OF THE UNITED STATES,
London, October 12, 1886. [Received October 26.]

SIR: I have the honor to inclose herewith a copy of a note received by me this day from Lord Iddesleigh in reference to the Canadian fisheries.

I have, &c.,

E. J. PHELPS.

[Inclosure with Mr. Phelps's No. 372.]

Lord Iddesleigh to Mr. Phelps.

FOREIGN OFFICE, October 11, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 11th ultimo, on the subject of the Canadian fisheries, and I beg leave to acquaint you that the note is under the careful consideration of Her Majesty's Government and that an answer will be returned as early as possible.

I have, &c.,

IDDESLEIGH.

No. 69.

Mr. Bayard to Mr. Phelps.

No. 434.]

DEPARTMENT OF STATE,
Washington, October 20, 1886.

SIR: I inclose herewith for your information a copy of my note of the 19th instant, to Sir Lionel West, concerning the seizure of the American fishing vessel Everett Steele, of Gloucester, Mass., by the Canadian cutter Terror, on the 10th of September, 1886, in the harbor of Shelburne, Nova Scotia.

I am, &c.,

T. F. BAYARD.

[Inclosure.]

Mr. Bayard to Sir Lionel West, October 19, 1886. (See No. 44, page 52.)

No. 70.

Mr. Bayard to Mr. Phelps.

No. 452.]

DEPARTMENT OF STATE,
Washington, November 6, 1886.

SIR: On October 7, 1886, the United States fishing vessel, the Marion Grimes, of Gloucester, Mass., Alexander Landry, a citizen of the United States, being her captain, arrived shortly before midnight under stress of weather, at the outer harbor of Shelburne, Nova Scotia.

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The night was stormy, with a strong head-wind against her, and her sole object was temporary shelter. She remained at the spot where she anchored, which was about seven miles from the port of Shelburne, no one leaving her until 6 o'clock the next morning, when she hoisted sail in order to put to sea. She had scarcely started, however, before she was arrested and boarded by a boat's crew from the Canadian cruiser Terror. Captain Landry was compelled to proceed to Shelburne, about seven miles distant, to report to the collector. When the report was made, Captain Landry was informed that he was fined \$400 for not reporting on the previous night. He answered that the custom-house was not open during the time that he was in the outer harbor. He further insisted that it was obvious from the storm that caused him to take shelter in that harbor, from the shortness of his stay, and from the circumstances that his equipments were exclusively for deep-sea fishing, and that he had made no effort whatever to approach the shore, that his object was exclusively to find shelter. The fine, however, being imposed principally through the urgency of Captain Quigley, commanding the Terror, Captain Landry was informed that he was to be detained at the port of Shelburne until a deposit to meet the fine was made. He consulted Mr. White, the United States consular agent at Shelburne, who at once telegraphed the facts to Mr. Phelan, United States consul-general at Halifax, it being of great importance to Captain Landry, and to those interested in his venture, that he should proceed on his voyage at once. Mr. Phelan then telegraphed to the assistant commissioner of customs at Ottawa that it was impossible for Captain Landry to have reported while he was in the outer harbor on the 8th instant, and asking that the deposit required to release the vessel be reduced. He was told in reply that the minister declined to reduce the deposit, but that it might be made at Halifax. Mr. Phelan at once deposited at Halifax the \$400, and telegraphed to Captain Landry that he was at liberty to go to sea. On the evening of October 11 Mr. Phelan received a telegram from Captain Landry, who had already been kept four days in the port, stating that "the custom-house officers and Captain Quigley" refused to let him go to sea. Mr. Phelan the next morning called on the collector at Halifax to ascertain if an order had issued to release the vessel, and was informed that the order had been given, "but that the collector and captain of the cruiser refused to obey it, for the reason that the captain of the seized vessel hoisted the American flag while she was in custody of Canadian officials." Mr. Phelan at once telegraphed this state of facts to the assistant commissioner at Ottawa, and received in reply, under date of August 12, the announcement that "collector has been instructed to release the Grimes from customs seizure. This department has nothing to do with other charges." On the same day a dispatch from the commissioner of customs at Ottawa was sent to the collector of customs at Halifax reciting the order to release the Grimes, and saying "this [the customs] department has nothing to do with other charges. It is department of marine."

The facts as to the flag were as follows :

On October 11, the Marion Grimes, being then under arrest by order of local officials for not immediately reporting at the custom-house, hoisted the American flag. Captain Quigley, who, representing, as appeared, not the revenue, but the marine department of the Canadian administration, was, with his "cruiser," keeping guard over the vessel, ordered the flag to be hauled down. This order was obeyed; but about an hour afterwards the flag was again hoisted, whereupon Captain

Quigley boarded the vessel with an armed crew and lowered the flag himself. The vessel was finally released under orders of the customs department, being compelled to pay \$8 costs in addition to the deposit of \$400 above specified.

The seriousness of the damage inflicted on Captain Landry and those interested in his venture will be understood when it is considered that he had a crew of twelve men, with full supplies of bait, which his detention spoiled.

You will at once see that the grievances I have narrated fall under two distinct heads.

The first concerns the boarding by Captain Quigley of the Marion Grimes on the morning of October 8th, and compelling her to go to the town of Shelburne, there subjecting her to a fine of \$400 for visiting the port without reporting, and detaining her there arbitrarily four days, a portion of which time was after a deposit to meet the fine had been made.

This particular wrong I now proceed to consider with none the less gravity, because other outrages of the same class have been perpetrated by Captain Quigley. On August 18th last I had occasion, as you will see by the annexed papers, to bring to the notice of the British minister at this capital several instances of aggression on the part of Captain Quigley on our fishing vessels. On October 19, 1886, I had also to bring to the British minister's notice the fact that Captain Quigley had, on September the 10th, arbitrarily arrested the Everett Steele, a United States fishing vessel at the outer port of Shelburne. To these notes I have received no reply. Copies are transmitted, with the accompanying papers, to you in connection with the present instruction, so that the cases, as part of a class, can be presented by you to Her Majesty's Government.

Were there no treaty relations whatever between the United States and Great Britain, were the United States fishermen without any other right to visit those coasts than are possessed by the fishing craft of any foreign country simply as such, the arrest and boarding of the Grimes, as above detailed, followed by forcing her into the port of Shelburne, there subjecting her to fine for not reporting, and detaining her until her bait and ice were spoiled, are wrongs which I am sure Her Majesty's Government will be prompt to redress. No Governments have been more earnest and resolute in insisting that vessels driven by stress of weather into foreign harbors should not be subject to port exactions than the Governments of Great Britain and the United States. So far has this solicitude been carried that both Governments, from motives of humanity, as well as of interest as leading maritime powers, have adopted many measures by which foreigners as well as citizens or subjects arriving within their territorial waters may be protected from the perils of the sea. For this purpose not merely light-houses and light-ships are placed by us at points of danger, but an elaborate life-saving service, well equipped with men, boats, and appliances for relief, studs our seaboard in order to render aid to vessels in distress, without regard to their nationality. Other benevolent organizations are sanctioned by Government which bestow rewards on those who hazard their lives in the protection of life and property in vessels seeking in our waters refuge from storms. Acting in this spirit the Government of the United States has been zealous, not merely in opening its ports freely, without charges to vessels seeking them in storm, but in insisting that its own vessels, seeking foreign ports under such circumstances, and exclu-

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In cases of vessels carried into British ports by violence or stress of weather [said Mr. Webster in instructions to Mr. Everett, June 28, 1842] we insist that there shall be no interference from the land with the relation or personal condition of those on board, according to the laws of their own country; that vessels under such circumstances shall enjoy the common laws of hospitality, subjected to no force, entitled to have their immediate wants and necessities relieved, and to pursue their voyage without molestation.

In this case, that of the Creole, Mr. Wheaton, in the *Revue Française et Étrangère* (IX, 345), and Mr. Legaré (4 Op. At. Gen., 98), both eminent publicists, gave opinions that a vessel carried by stress of weather or forced into a foreign port is not subject to the law of such port; and this was sustained by Mr. Bates, the umpire of the commission to whom the claim was referred (Rep. Com. of 1853, 244, 245):

The municipal law of England [so he said] cannot authorize a magistrate to violate the law of nations by invading with an armed force the vessel of a friendly nation that has committed no offense, and forcibly dissolving the relations which, by the laws of his country, the captain is bound to preserve and enforce on board. These rights, sanctioned by the law of nations, viz, the right to navigate the ocean and to seek shelter in case of distress or other unavoidable circumstances, and to retain over the ship, her cargo, and passengers, the law of her country, must be respected by all nations, for no independent nation would submit to their violation.

It is proper to state that Lord Ashburton, who conducted the controversy in its diplomatic stage on the British side, did not deny as a general rule the propositions of Mr. Webster. He merely questioned the applicability of the rule to the case of the Creole. Nor has the principle ever been doubted by either Her Majesty's Government or the Government of the United States; while, in cases of vessels driven by storm on inhospitable coasts, both Governments have asserted it, sometimes by extreme measures of redress, to secure indemnity for vessels suffering under such circumstances from port exactions, or from injuries inflicted from the shore.

It would be hard to conceive of anything more in conflict with the humane policy of Great Britain in this respect, as well as with the law of nations, than was the conduct of Captain Quigley towards the vessel in question on the morning of October 8th.

In such coasts, at early dawn, after a stormy night, it is not unusual for boats, on errands of relief, to visit vessels which have been struggling with storm during the night. But in no such errand of mercy was Captain Quigley engaged. The Marion Grimes, having found shelter during the night's storm, was about to depart on her voyage, losing no time while her bait was fresh and her ice lasted, when she was boarded by an armed crew, forced to go 7 miles out of her way to the port, and was there under pressure of Captain Quigley, against the opinion originally expressed of the collector, subjected to a fine of \$400 with costs, and detained there, as I shall notice hereafter, until her voyage was substantially broken up. I am confident Her Majesty's Government will concur with me in the opinion that, as a question of international law, aside from treaty and other rights, the arrest and detention under the circumstances of Captain Landry and of his vessel were a violation of the law of nations as well as the law of humanity, and that on this ground alone the fine and the costs should be refunded and the parties suffering be indemnified for their losses thereby incurred.

It is not irrelevant, on such an issue as the present, to inquire into the official position of Captain Quigley, "of the Canadian cruiser Ter-

ror." He was, as the term "Canadian cruiser" used by him enables us to conclude, not an officer in Her Majesty's distinctive service. He was not the commander of a revenue cutter, for the head of the customs service disavowed him. Yet he was arresting and boarding, in defiance of law, a vessel there seeking shelter, over-influencing the collector of the port into the imposition of a fine, hauling down with his own hand the flag of the United States, which was displayed over the vessel, and enforcing arbitrarily an additional period of detention after the deposit had been made, simply because the captain of the vessel refused to obey him by executing an order insulting to the flag which the vessel bore. If armed cruisers are employed in seizing, harassing, and humiliating storm-bound vessels of the United States on Canadian coasts, breaking up their voyages and mulcting them with fines and costs, it is important for reasons presently to be specified that this Government should be advised of the fact.

From Her Majesty's Government redress is asked. And that redress, as I shall have occasion to say hereafter, is not merely the indemnification of the parties suffering by Captain Quigley's actions, but his withdrawal from the waters where the outrages I represent to you have been committed.

I have already said that the claims thus presented could be abundantly sustained by the law of nations, aside from treaty and other rights. But I am not willing to rest the case on the law of nations. It is essential that the issue between United States fishing vessels and the "cruiser Terror" should be examined in all its bearings, and settled in regard not merely to the general law of nations, but to the particular rights of the parties aggrieved.

It is a fact that the fishing vessel Marion Grimes had as much right under the special relations of Great Britain and the United States to enter the harbor of Shelburne as had the Canadian cruiser. The fact that the Grimes was liable to penalties for the abuse of such right of entrance does not disprove its existence. Captain Quigley is certainly liable to penalties for his misconduct on the occasion referred to. Captain Landry was not guilty of misconduct in entering and seeking to leave that harbor, and had abused no privilege. But whether liable or no for subsequent abuse of the rights, I maintain that the right of free entrance into that port, to obtain shelter, and whatever is incident thereto, belonged as much to the American fishing vessel as to the Canadian cruiser.

The basis of this right is thus declared by an eminent jurist and statesman, Mr. R. R. Livingston, the first Secretary of State appointed by the Continental Congress, in instructions issued on January 7, 1782, to Dr. Franklin, then at Paris, intrusted by the United States with the negotiation of articles of peace with Great Britain:

The arguments on which the people of America found their claim to fish on the banks of Newfoundland arise, first, from their having once formed a part of the British Empire, in which state they always enjoyed as fully as the people of Britain themselves the right of fishing on those banks. They have shared in all the wars for the extension of that right, and Britain could with no more justice have excluded them from the enjoyment of it (even supposing that one nation could possess it to the exclusion of another) while they formed a part of that Empire than they could exclude the people of London or Bristol. If so, the only inquiry is, how have we lost this right? If we were tenants in common with Great Britain while united with her, we still continue so, unless by our own act we have relinquished our title. Had we parted with mutual consent, we should doubtless have made partition of our common rights by treaty. But the oppressions of Great Britain forced us to a separation (which must be admitted, or we have no right to be independent); and

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can not certainly be contended that those oppressions abridged our rights or gave new ones to Britain. Our rights, then, are not invalidated by this separation, more particularly as we have kept up our claim from the commencement of the war, and assigned the attempt of Great Britain to exclude us from the fisheries, as one of the causes of our recurring to arms.

As I had occasion to show in my note to the British minister in the case of the *Everett Steele*, of which a copy is hereto annexed, this "tenancy in common," held by citizens of the United States in the fisheries, they were to "continue to enjoy" under the preliminary articles of 1782, as well as under the treaty of peace of 1783; and this right, as a right of entrance in those waters, was reserved to them, though with certain limitations in its use, by the treaty of 1818. I might here content myself with noticing that the treaty of 1818, herein reciting a principle of the law of nations as well as ratifying a right previously possessed by fishermen of the United States, expressly recognizes the right of these fishermen to enter the "bays or harbors" of Her Majesty's Canadian dominions, "for the purpose of shelter and of repairing damages therein." The extent of other recognitions of rights in the same clause need not here be discussed. At present it is sufficient to say that the placing an armed cruiser at the mouth of a harbor in which the United States fishing vessels are accustomed and are entitled to seek shelter on their voyages, such cruiser being authorized to arrest and board our fishing vessels seeking such shelter, is an infraction not merely of the law of nations, but of a solemn treaty stipulation. That, so far as concerns the fishermen so affected, its consequences are far-reaching and destructive, it is not necessary here to argue. Fishing vessels only carry provisions enough for each particular voyage. If they are detained several days on their way to the fishing banks the venture is broken up. The arrest and detention of one or two operates upon all. They cannot as a class, with their limited capital and resources, afford to run risks so ruinous. Hence, rather than subject themselves to even the chances of suffering the wrongs inflicted by Captain Quigley, "of the Canadian cruiser *Terror*," on some of their associates, they might prefer to abandon their just claim to the shelter consecrated to them alike by humanity, ancient title, the law of nations, and by treaty, and face the gravest peril and the wildest seas in order to reach their fishing grounds. You will therefore represent to Her Majesty's Government that the placing Captain Quigley in the harbor of Shelburne to inflict wrongs and humiliation on United States fishermen there seeking shelter is, in connection with other methods of annoyance and injury, expelling United States fishermen from waters, access to which, of great importance in the pursuit of their trade, is pledged to them by Great Britain, not merely as an ancient right, but as part of a system of international settlement.

It is impossible to consider such a state of things without grave anxiety. You can scarcely represent this too strongly to Her Majesty's Government.

It must be remembered, in considering this system, so imperiled, that the preliminaries to the article of 1782, afterwards adopted as the treaty of 1783, were negotiated at Paris by Dr. Franklin, representing the United States, and Mr. Richard Oswald, representing Lord Shelburne, then colonial secretary, and afterwards, when the treaty was finally agreed on, prime minister. It must be remembered, also, that Lord Shelburne, while maintaining the rights of the colonies when assailed by Great Britain, was nevertheless unwilling that their independence should be recognized prior to the treaty of peace, as if it were a concession wrung from Great Britain by the exigencies of war. His

position was that this recognition should form part of a treaty of partition, by which, as is stated by the court in *Sutton v. Sutton* (1 Rus. & M., 675), already noticed by me, the two great sections of the British Empire agreed to separate, in their articles of separation recognizing to each other's citizens or subjects certain territorial rights. Thus the continuance of the rights of the United States in the fisheries was recognized and guaranteed; and it was also declared that the navigation of the Mississippi, whose sources were, in the imperfect condition of geographical knowledge of that day, supposed to be in British territory, should be free and open to British subjects and to citizens of the United States. Both powers also agreed that there should be no further prosecutions or confiscations based on the war; and in this way were secured the titles to property held in one country by persons remaining loyal to the other. This was afterwards put in definite shape by the following article (Article X) of Jay's treaty:

It is agreed that British subjects who now hold lands in the territories of the United States, and American citizens who now hold lands in the dominion of His Majesty, shall continue to hold them according to the nature and tenure of their respective estates and titles therein, and may grant, sell, or devise the same to whom they please in like manner as if they were natives; and that neither they nor their heirs or assigns shall, so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens.

It was this article which the court in *Sutton v. Sutton*, above referred to, held to be one of the incidents of the "separation" of 1783, of perpetual obligation, unless rescinded by the parties, and hence not abrogated by the war of 1812.

It is not, however, on the continuousness of the reciprocities, recognized by the treaty of 1783, that I desire now to dwell. What I am anxious you should now impress upon the British Government is the fact that, as the fishery clause in this treaty, a clause continued in the treaty of 1818, was a part of a system of reciprocal recognitions which are interdependent, the abrogation of this clause, not by consent, but by acts of violence and of insult, such as those of the Canadian cruiser *Terror*, would be fraught with consequences which I am sure could not be contemplated by the Governments of the United States and Great Britain without immediate action being taken to avert them. To the extent of the system thus assailed I now direct attention.

When Lord Shelburne and Dr. Franklin negotiated the treaty of peace, the area on which its recognitions were to operate was limited. They covered, on the one hand, the fisheries; but the map of Canada in those days, as studied by Lord Shelburne, gives but a very imperfect idea of the territory near which the fisheries lay. Halifax was the only port of entry on the coast; the New England States were there and the other nine were provinces, but no organized governments to the west of them. It was on this area only, as well as on Great Britain, that the recognitions and guarantees of the treaty were at first to operate. Yet comparatively small as this field may now seem, it was to the preservation over it of certain reciprocal rights that the attention of the negotiators was mainly given. And the chief of these rights were: (1) the fisheries, a common enjoyment in which by both parties took nothing from the property of either; and (2) the preservation to the citizens or subjects of each country of title to property in the other.

Since Lord Shelburne's premiership this system of reciprocity and mutual convenience has progressed under the treaties of 1842 and 1846, so as to give to Her Majesty's subjects, as well as to citizens of the United States, the free use of the river Detroit or both sides of the island Bois

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Blanc, and between that island and the American and Canadian shores, and all the several channels and passages between the various islands lying near the junction of the river St. Clair with the lake of that name. By the treaty of 1846 the principle of common border privileges was extended to the Pacific Ocean. The still existing commercial articles of the treaty of 1871 further amplified those mutual benefits by embracing the use of the inland waterways of either country, and defining enlarged privileges of bonded transit by land and water through the United States for the benefit of the inhabitants of the Dominion. And not only by treaties has the development of Her Majesty's American dominion, especially to the westward, been aided by the United States, but the vigorous contemporaneous growth under the enterprise and energy of citizens of the Northwestern States and Territories of the United States has been productive of almost equal advantages to the adjacent possessions of the British Crown, and the favoring legislation by Congress has created benefits in the way of railway facilities which under the sanction of State laws have been and are freely and beneficially enjoyed by the inhabitants of the Dominion and their Government.

Under this system of energetic and co-operative development the coast of the Pacific has been reached by the transcontinental lines of railway within the territorial limits of the respective countries, and, as I have stated, the United States being the pioneers in this remarkable progress, have been happily able to anticipate and incidentally to promote the subsequent success of their neighbors in British America.

It will be scarcely necessary for you to say to Lord Iddesleigh that the United States, in thus aiding in the promotion of the prosperity, and in establishing the security of Her Majesty's Canadian dominions, claims no particular credit. It was prompted, in thus opening its territory to Canadian use, and incidentally for Canadian growth, in large measure by the consciousness that such good offices are part of a system of mutual convenience and advantage growing up under the treaties of peace and assisted by the natural forces of friendly contiguity. Therefore it is that we witness with surprise and painful apprehension the United States fishermen hampered in their enjoyment of their undoubted rights in the fisheries.

The hospitalities of Canadian coasts and harbors, which are ours by ancient right, and which these treaties confirm, cost Canada nothing and are productive of advantage to her people. Yet, in defiance of the most solemn obligations, in utter disregard of the facilities and assistances granted by the United States, and in a way especially irritating, a deliberate plan of annoyances and aggressions has been instituted and plainly exhibited during the last fishing season—a plan calculated to drive these fishermen from shores where, without injury to others, they prosecute their own legitimate and useful industry.

It is impossible not to see that if the unfriendly and unjust system, of which the cases now presented are part, is sustained by Her Majesty's Government, serious results will almost necessarily ensue, great as is the desire of this Government to maintain the relations of good neighborhood. Unless Her Majesty's Government shall effectually check these aggressions a general conviction on the part of the people of the United States may naturally be apprehended that, as treaty stipulations on behalf of our fishermen, based on their ancient rights, cease to be respected, the maintenance of the comprehensive system of mutual commercial accommodation between Canada and the United States could not reasonably be expected.

In contemplation of so unhappy and undesirable a condition of affairs I express the earnest hope that Her Majesty's Government will take immediate measures to avert its possibility.

With no other purpose than the preservation of peace and good will and the promotion of international amity, I ask you to represent to the statesmen charged with the administration of Her Majesty's Government the necessity of putting an end to the action of Canadian officials in excluding American fishermen from the enjoyment of their treaty rights in the harbors and waters of the maritime provinces of British North America.

The action of Captain Quigley in hauling down the flag of the United States from the Marion Grimes has naturally aroused much resentment in this country, and has been made the subject of somewhat excited popular comment; and it is wholly impossible to account for so extraordinary and unwarranted an exhibition of hostility and disrespect by that official. I must suppose that only his want of knowledge of what is due to international comity and propriety and overheated zeal as an officer of police could have permitted such action; but I am confident that, upon the facts being made known by you to Her Majesty's Government, it will at once be disavowed, a fitting rebuke be administered, and the possibility of a repetition of Captain Quigley's offense be prevented.

It seems hardly necessary to say that it is not until after condemnation by a prize court that the national flag of a vessel seized as a prize of war is hauled down by her captor. Under the fourteenth section of the twentieth chapter of the Navy Regulations of the United States the rule in such cases is laid down as follows:

A neutral vessel, seized, is to wear the flag of her own country until she is adjudged to be a lawful prize by a competent court.

But, *a fortiori*, is this principle to apply in cases of customs seizures, where fines only are imposed and where no belligerency whatever exists. In the port of New York, and other of the countless harbors of the United States, are merchant vessels to-day flying the British flag which from time to time are liable to penalties for violations of customs laws and regulations. But I have yet to learn that any official, assuming, directly or indirectly, to represent the Government of the United States, would under such circumstances order down or forcibly haul down the British flag from a vessel charged with such irregularity, and I now assert that if such act were committed, this Government, after being informed of it, would not wait for a complaint from Great Britain, but would at once promptly reprimand the parties concerned in such misconduct and would cause proper expression of regret to be made.

A scrupulous regard for international respect and courtesy should mark the intercourse of the officials of these two great and friendly nations, and anything savoring of the contrary should be unhesitatingly and emphatically rebuked. I cannot doubt that these views will find ready acquiescence from those charged with the administration of the Government of Great Britain.

You are at liberty to make Lord Iddesleigh acquainted with the contents of this letter, and, if desired, leave with him a copy.

I am, sir, your obedient servant,

T. F. BAYARD.

EDWARD J. PHELPS, Esq., &c.

No. 71.

Mr. Bayard to Mr. Phelps.

No. 462.]

DEPARTMENT OF STATE,
Washington, November 20, 1886.

SIR: On the 6th of the present month I wrote you concerning the treatment of the United States fishing schooner Marion Grimes, of Gloucester, Mass., on October 7, 1886, in the outer harbor of Shelburne, Nova Scotia, by Captain Quigley, of the Canadian cruiser Terror.

I received yesterday and now inclose a copy of the statement made under oath by Captain Landry of the Marion Grimes, and present it as supplementary and confirmatory of my former communication on the subject.

I am, &c.,

T. F. BAYARD.

J. Alexander Landry, master of schooner Marion Grimes, of Gloucester, being duly sworn, do depose and say:

That on Monday, October 4, 1886, I sailed from Gloucester on a fishing trip to Western Bank. On the night of Thursday, October 7, the wind blowing almost a gale from the southeast and a heavy sea running, we came to anchor in the entrance of Shelburne Harbor about midnight for shelter. We were then fully 10 miles from the custom-house at Shelburne. At 4.30 a. m. of the next day we hove up our anchor to continue our voyage, the wind having died away almost to a calm. Just as we had got our anchor on the bow an officer and boat's crew from Canadian cruiser Terror (which laid off Sand Point some 3 miles above us) came on board and told me we must come to anchor at once and go to the custom-house at Shelburne and enter and clear. I at once anchored the vessel and taking my boat and two of my crew started for the custom-house. When we reached the Terror, Captain Quigley ordered me to come on board his vessel, leave my boat and men, and go with him in his boat to Shelburne. I arrived at the custom-house at about 8.30 a. m., and waited until 9 a. m., when Collector Attwood arrived. I then entered and cleared my vessel and was about to pay the charges and depart, when Captain Quigley entered the office and told the collector he ought not to clear my vessel as I had attempted to leave the harbor without reporting, and that the case should be laid before the authorities at Ottawa. Collector Attwood then withheld my papers until a decision should be received from Ottawa. I then tried to find the American consul, calling at his office three times during the day, and was unable to find him. But in the afternoon found a Mr. Blatchford in the consul's office, who informed me that my vessel had been fined \$400, and I wired my owners accordingly. At 4 p. m. returned with Captain Quigley on board the Terror, and when on board he informed me that my vessel was fined \$400.

He then sent a boat's crew on board my schooner, telling me to go with them, but retaining my boat and two men, and ordered me to take my schooner up to Shelburne at once. We started and got as far as Sand Point, and came to anchor for want of wind at about 10 o'clock p. m., and alongside the Terror. At 3 o'clock a. m. on Saturday, October 9, accompanied by the Terror, we started again for Shelburne inner harbor, arriving there about 7 o'clock a. m., and then the boat's crew left us and my two men came on board in my boat. I then went on shore and found the American consul, who informed me he could not give me any assistance. During Saturday, Sunday, and Monday I awaited dispatches from my owner in regard to the payment of the fine. On Monday morning, it being the anniversary of my birthday, I hoisted the American flag to the mast-head, and immediately Captain Quigley (speaking from the deck of his vessel) ordered me to haul it down, which I did; but after thinking the matter over, I concluded that as no regular seizure of my vessel had been made, no broad arrow put upon my mast, but my vessel only detained until a deposit of the fine had been made, Captain Quigley had acted beyond his authority, and acting on this conclusion I again set my flag at the mast-head. Captain Quigley again ordered me to haul down the flag, which I refused to do; upon which he came on board my vessel with eight men, and asked who gave the authority to hoist that flag. I replied that I took the authority myself. He then said, "Well, I'll haul it down myself,"

BAYARD.

which I forbid him to do; but without heeding me he immediately hauled down the flag, unbent it, unrove the halliards, and passed the flag to me. I passed it back to him, telling him as he had hauled it down he better take charge of it himself. He then ordered his men to haul the vessel into the wharf, which they did, and Collector Attwood came on board and put a broad arrow ($\blacktriangledown$) on the mainmast and placed two watchmen on the wharf to watch the vessel. On Tuesday, October 12, at 10 a. m., Collector Attwood informed me that the vessel was released, but I must pay the bill for watching, amounting to \$3, and to save further delay I did so. On Tuesday evening, October 12, sailed for the Western Bank in continuation of my voyage.

ALEXANDER ^{his} LANDRY,
mark. Master.

Witness:

J. WARREN WONSON.

MASSACHUSETTS, ESSEX, ss:

NOVEMBER 13, 1886.

Personally appeared Alexander Landry and made oath to the truth of the above statement before me.

[SEAL.]

AARON PARSONS,
Notary Public.

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III.—MISCELLANEOUS. SELECTIONS FROM CORRESPONDENCE
OF THE DEPARTMENT OF STATE WITH PARTIES INTERESTED
IN AMERICAN FISHING VESSELS MOLESTED IN CANADIAN
WATERS.

No. 72.

Messrs. Cushing and McKenney to Mr. Bayard.

[Telegram.]

PORTLAND, ME., April 9. [Received April 9.]

Having several fishing vessels ready for the Banks, we desire to know if they can call at Canadian ports for men and be protected in so doing:

CUSHING & MCKENNEY.

No. 73.

Mr. Bayard to Messrs. Cushing and McKenney.

[Telegram.]

STATE DEPARTMENT, April 9, 1886.

The question of the right of American vessels engaged in fishing on the high seas to enter Canadian ports for the purpose of shipping crews may possibly involve construction of treaty with Great Britain. I expect to attain such an understanding as will relieve our fishermen from all doubts or risk in the exercise of the ordinary commercial privileges of friendly ports, to which, under existing laws of both countries, I consider their citizens to be mutually entitled free from molestation.

T. F. BAYARD.

No. 74.

Mr. Woodbury to Mr. Bayard.

BOSTON May 21, 1886. [Received May 24.]

SIR: In behalf of Jesse Lewis, esq., I inclose a statement by him and the crew of the D. J. Adams of the damages inuring to them by the seizure of that schooner by the British authorities near the Gut of Annapolis, and her detention at Digby, for an alleged violation of the

convention of 1818 between the United States and Great Britain. Mr. Lewis employed counsel at Halifax, who has informed him that there are "two suits pending, one *in rem*, under section 2, imperial act 1819, for alleged violation of the treaty 1818, act of 1819, and the Canadian fishery acts of 1868, 1870, 1871; no proceedings taken yet for violation of customs act other than seizure and detention by customs officer at Digby. The charge in this respect, I believe, is under sections 25 and 29, Canada customs act, chap. 12, 1883. The other suit against captain personally, and is for a penalty under section 4, imperial act, 1819."

The information I have from the master is that the Adams was arrested some miles from the town of Digby and ordered into the Lansdowne by an armed boat, she being at that time beating out of the gut against a head tide from an anchorage five or six miles up the basin beyond Digby, and was in the possession of the captors from the Lansdowne before she changed her course, and headed by their command into Digby. No seizure was made by any custom-house officer whilst the master controlled the vessel, and the owner and master are in profound ignorance of any such proceeding, or of the grounds, except the telegram which I cite above, and his counsel in Halifax has not yet been able to be more definite. Mr. Lewis, through his friends, has furnished security for costs to enable him to interpose a defense in the admiralty court against the libel *in rem*, based on the treaty of 1818. His vessel had been lately extensively repaired, and he has no means to bond her. Indeed, as it is in the power of the authorities there to seize her over and over, it would be impossible to know in what amount he would need to find security before he could get the vessel out of the hands of the provincial authorities—out of their local jurisdiction.

The only cause of seizure avowed is that the master "bought bait" somewhere along the coast and received it on the vessel. The undersigned has not discovered any statute forbidding a master to buy bait or anything else in a British Canadian port, nor one that subjects a vessel of the United States to forfeiture for exporting bait from such ports. It is supposed the provincials assert the doctrine that trading in their ports either is a violation of the treaty of 1818 or of the act of 1819. It cannot be that a private person can in the inferior courts of a foreign country undertake to defend the American construction of that treaty against the suit of the Crown, who alone is imperative in its courts of admiralty as to matters of treaty or maritime privilege; nor can it be that in such inferior courts the consonance of the act of 1819, with the principles of the treaty of 1818, or the law of nations, can be put in issue by the citizen of the United States defending his property; it is only the United States in its sovereignty that can arraign before the sovereignty of Great Britain the question whether the act of 1819 conflicts with or impairs the American right under the convention or the law of nations. My client would not humiliate his native land so much as to ask its Executive to appear by counsel before a local inferior tribunal of the other party to the convention of 1818 and submit to its decision any question affecting the sovereignty of the contracts it had made with Great Britain. It seems, then, to my perhaps imperfect understanding of the principles of national law, that my client must rely upon his own Government for defense and redress for the outrage upon his property, and he requests the intervention of the Executive as the only adequate protection he can have against the aggressive spoliation of his property by subordinate British officials. It is proper also that I should invite your attention to the evident fact that the *cause* put forth is the alleged shortcoming of the United States in not living up to its con-

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vention, but that the incident is the exercise over the persons and property of private citizens of the United States of an absolute control to forfeit the one and punish the other without the consent of the United States, and without even this country having agreed to the interpretations shadowed or expressed by the imperial act of 1819.

I have, &c.,

CHAS. LEVI WOODBURY,
Counsel for Jesse Lewis, at Boston.

[Inclosure No. 1 with Mr. Woodbury's letter of May 21, 1886.]

Deposition of crew of the David J. Adams.

In re schooner David J. Adams, of Gloucester.

We, the undersigned, on oath declare and say that we were members of the crew of the fishing schooner David J. Adams, belonging to Mr. Jesse Lewis, of Gloucester, Essex County, Massachusetts, when she was seized at Digby, N. S., May 7, 1886, by the Canadian Government; that we had on board said schooner David J. Adams at the time of said seizure as follows:

3,000 pounds of cod, at 2 cents.....	\$100 00
500 pounds of halibut, at 10 cents.....	50 00
1½ barrels bait.....	12 50
2 tons ice.....	20 00
Total.....	182 50

of the value of \$182.50; that one-half of the same belonged to us, of the value of \$91.25. That we have lost by reason of said seizure, one additional trip, making two trips lost to each of us, of the value of \$25 each trip, or \$50 for the two trips.

Witness our hands at Gloucester, May 18, 1886.

ALDON KINNEY, *Master.*
ISAIAH ROBERTS.
JAMES SWANESBURG.
ELROY PRIOR.
JOHN BEATON.
BATH MAEN.
E. D. SIMMONS.

JOSEPH BOUCHER.
JOHN BROWN.
FRANK ARNESEN.
JOSEPH HANLEY.
FRED FISCHER.
SAMUEL HOOPER.
CALVIN COOK.

STATE OF MASSACHUSETTS, COUNTY OF ESSEX,

Office of the Police Court of Gloucester, Mass. :

I, Sumner D. York, clerk of the police court of Gloucester, the same being a court of record, in the county of Essex, State of Massachusetts, having a seal, do certify that William W. French, esq., was at the date of the certificate of the annexed instrument in writing a justice of the peace in and for said county duly authorized; that I am well acquainted with the handwriting of such officer, and verily believe that the signature to said certificate is genuine; and that the annexed instrument is executed according to the laws of this State.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 18th day of May, A. D. 1886.

[L. s.]

SUMNER D. YORK,
Clerk.

COMMONWEALTH OF MASSACHUSETTS,

Essex, ss :

GLoucester, May 18, 1886.

Personally appeared the said Aldon Kinney, Isaiah Roberts, James Swanesburg, Elroy Prior, John Beaton, E. D. Simmons, Joseph Boucher, John Brown, Frank Arnesen, Joseph Hanley, Fred Fischer, Samuel Hooper, and on oath declared the foregoing statement by them subscribed to be true.

Before me.

WILLIAM W. FRENCH,
Justice of the Peace

[Inclosure No. 2 with Mr. Woodbury's letter of May 21, 1886.]

Affidavit of Capt. Jesse Lewis, of the David J. Adams.

I, Jesse Lewis, of Gloucester, Essex County, and State of Massachusetts, declare and say that I am the sole owner of the fishing schooner David J. Adams, seized by the Canadian Government May 7, 1886, at Digby, N. S.; that the said schooner is worth \$5,000; that the provisions on board at the time of seizure were worth \$200; that there was on board 40 tons ballast, worth \$80; that the ice-house platform and gurry pens on board were worth \$150; that the 35 hogsheads of salt on board were worth \$60; that the stores and furniture for same on board were worth \$125; that the boxes and fishing knives and forks were worth \$25; that the side lanterns, binnacle lights, and signal torches were worth \$50; that 2 water-casks, 5 barrels, and 15 kegs barrels were worth \$25; that one dory and oars were worth \$15; that the fishing-gear, 6 dozen lines, leads, snoods, and gear were worth \$75; that the medicine-chest was worth \$20; that all the above-named goods were on board the Adams at the time of seizure aforesaid; that by reason of said seizure I have lost the profits of said voyage of the value of \$650; that I claim as loss, interest from the date of the seizure, May 7, 1886, on the vessel and outfits, and interest on the loss of the voyage from June 7, 1886; that I have paid J. H. Murray, United States consul, on account of the crew of said Adams, \$202.96; that the estimated expenses of the admiralty court are \$24; that my traveling expenses (advice and services incurred) are \$120; the probable legal services to be paid for are estimated at \$1,000.

I was born in Kittery, Me., and have lived in Gloucester, Mass., forty years; that there was on board 1 compass, worth \$40.

JESSE LEWIS.

COMMONWEALTH OF MASSACHUSETTS,
Essex, ss :

GLOUCESTER, May 18, 1886.

Personally appeared the above-named Jesse Lewis, and on oath declared the above statement by him subscribed to be true.

Before me.

WILLIAM W. FRENCH,
Justice of the Peace.

[Inclosure No. 3 with Mr. Woodbury's letter of May 21, 1886.]

Depositions showing nationality of the crew of the David J. Adams.

GLOUCESTER, May 18, 1886.

I declare and say that I am a native of Gloucester, Mass.

ALDON KINNEY.

I declare and say that I am a citizen of the United States; that I have fished from said country for the past twenty years.

ISAIAH ROBERTS.

I declare and say that I am a native of Nova Scotia, and have been fishing from American ports for two years.

JAMES SWANESBURG.

I declare and say that I am a native of Breme, Me.

ELROY PRIOR.

I declare and say that I am a native of Bath, Me.

JOHN BEATON.

I declare and say that I am a native of Breme, Me.

E. D. SIMMONS.

I declare and say that I am a native of Booth Bay, Me.

JOSEPH BOUCHER.

I declare that I am a native of St. George, N. B.; that I have fished from American ports during the past eight years.

JOHN BROWN.

I declare that I am a native of Norway, and have fished from American ports for the last seven or eight years.

FRANK ARNESEN.

I declare and say that I am a native of St. George, N. B.; that I have fished from American ports for the last seven years.

JOSEPH WENLEY.

I say that I am a native of Germany; that I have fished from American ports for the last five years.

FRED FISCHER.

I declare that I am a native of St. George, N. B.; that I have fished from American ports for the last seven years.

SAMUEL HOOPER.

COMMONWEALTH OF MASSACHUSETTS,

Essex, ss :

GLOUCESTER, May 18, 1886.

Severally subscribed and sworn to before me.

WILLIAM W. FRENCH,
Justice of the Peace.

I declare and say that I was born in Maine, and am a citizen of the United States.

CALVIN COOK.

No. 75.

Mr. Woodbury to Mr. Bayard.

BOSTON, May 22, 1886. [Received May 24.]

SIR: In the matter of Mr. Lewis's statement of damages incurred by the seizure of the D. J. Adams, I yesterday transmitted some papers sent me from Gloucester, perhaps without as mature consideration as they should have received. Mr. Lewis's claim to the fish caught, as I take the law to be, is that of owner, but the law makes his ownership a trust to divide among the sharesmen their share of the net proceeds of the fish when received by him.

The master and crew appear, claiming their loss by the breaking up of the trip. This is their own adventure, and I must not be considered as their counsel in this matter, nor as in any way sanctioning their statement as to their citizenship, residence, &c. I have to-day from Gloucester the official fact that the custom-house at Digby have seized under the sections referred to in the telegram quoted in my last, together with a reference to sections which make this seizure for a \$400-penalty a lien on the vessel.

I learn Mr. Meagher, the counsel of Mr. Lewis at Halifax, is in town, and hope to see him within a day or two for consultation, and will advise the Department of our views as to that; meanwhile we are hardly ripe for any step of reclamation.

I beg you to believe that Mr. Lewis and myself wish to conform in our action to the wishes and policy of the Department, and to rely on its generous efforts to protect his property.

I am, &c.,

CHAS. LEVI WOODBURY,
Counsel at Boston for Mr. Lewis.

No. 76.

Mr. Steele to Mr. Bayard.

GLOUCESTER, May 22, 1886. [Received May 24.]

SIR: Learning by telegraphic news that your consideration of the provincial seizures has been somewhat delayed by the want of documentary evidence, I inclose affidavits this morning received from Eastport relative to the schooner Jennie and Julia of that port. They were sent me by a reputable merchant. I am in no way interested in the vessel, nor do I know who are her owners. If there is any service which the members of the American Fishery Union or its officers can render that would be of use in your efforts to obtain redress from Canadian annoyances, they will very cheerfully be at your service.

I am, &c.,

GEO. STEELE,
President of the American Fishery Union.

[Inclosure No. 1.]

Statement of Capt. William H. Farris, master of schooner Jennie and Julia, of Eastport.

I, William H. Farris, master of the schooner Jennie and Julia, a vessel of the United States hailing from Eastport, Me., cleared from Eastport on 17th inst., taking out a register, crew list, and all papers required for a foreign voyage. I left Eastport at about 4 o'clock, p. m., arriving at Digby, Nova Scotia, at about 10 o'clock of the forenoon of the 18th inst., dropping anchor in Digby Harbor. I immediately went ashore and reported to United States Consular Agent Stewart, and delivered all my papers to him. After looking over the papers Mr. Stewart informed me that he did not think he could do anything for me, except if my vessel was seized or cast away, he could send myself and crew home. He further said that he did not know whether he was reappointed under this new administration or not.

I then took my papers from the consul and went to the custom-house and found the door locked. Turning from the door I met the collector, Veits, and his son coming to the office. He asked if I was Captain Farris. I answered that I was. He said, "What are you here for—bait?" I answered, "I am here for fresh herring." He said, "You can't have any." I then asked him to look at my papers. He examined them and asked what I had this kind of a register for. I answered, "After stating to the collector at Eastport what I wanted to do, he gave me these papers as the proper ones." The collector, Mr. Veits, then said, "You can't buy fresh herring here for any purpose."

I said to him that I had two smoke-houses at home empty, and I would like to buy fresh herring to fill them up. He answered, "You cannot buy herring for any purpose."

I then said to him, "If I can't buy herring I will take my papers and go home" and the collector said, "No; wait till afternoon and then I will let you know."

At about 3 o'clock I went to the custom-house again, when the collector told me that he had telegraphed to headquarters, but had received no answer.

About 7 o'clock p. m. the collector informed me that he could allow me to enter my vessel but could not give a clearance. I then said to him, "If I buy one barrel of fresh herring I am liable to seizure" and the collector answered, "Yes."

I then went on board my vessel and started for home.

W. H. FARRIS,
Master Schooner Jennie and Julia.

Subscribed and sworn to this 2d day of May, 1886.
Before me.
[L. s.]

GEORGE H. HAYES,
Notary Public.

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(Inclosure No. 2.)

Statement of Arthur Farris, mate to the schooner Jennie and Julia.

The Jennie and Julia sailed from Eastport, May 17, for Digby, N. S., arriving there about 10 o'clock of the morning of the 18th. Immediately after dropping anchor, the captain went on shore. About half an hour after a steam tug came alongside, and a man on board, whom I afterwards learned was the collector of the port of Digby, took out a note-book and wrote something in it; then threw a line aboard, to which I paid no attention. He then asked, "What are you doing here?" I answered, "We are here to buy herring." He then asked me, if I did not know we were violating the law. I answered, "No, I think not." He then asked me if I did not know we were liable to seizure. I then told him that we were under register, and had cleared for Digby, to return to Eastport when we left Digby. He then asked if I was captain. I told him no, the captain had gone ashore to the custom-house. He then asked me what we were doing with fishing-gear on deck. I told him to ask the captain and he would tell him. The collector then said, "I warn you not to buy herring."

ARTHUR M. FARRIS.

Subscribed and sworn to before me this 20th day of May, 1886.

[L. S.]

GEORGE H. HAYES,
Notary Public.

I, George S. Farris, state that I am one of the crew of the schooner Jennie and Julia, and was present during the conversation between the collector of the port of Digby and the mate of the Jennie and Julia, and state that the foregoing affidavit of the mate is correct.

GEORGE S. FARRIS.

Subscribed and sworn to before me this 20th day of May, 1886.

[L. S.]

GEORGE H. HAYES,
Notary Public.

No. 77.

*Mr. Bayard to Mr. Steele.*DEPARTMENT OF STATE,
Washington, May 26, 1886.

SIR: Your letter of the 22d instant has been received, and the affidavits sent in the matter of the application of the Jennie and Julia, of Eastport, Me., to purchase fresh herring at Digby, Nova Scotia, will be placed on file and duly considered in connection with the questions involved.

This Department will be at all times most willing to receive reports from citizens of the United States respecting any unusual treatment they may encounter abroad, and duly to investigate and endeavor to remedy any alleged diminution of their lawful rights.

I am, sir, &c.,

T. F. BAYARD.

GEORGE STEELE, Esq.,
President of the American Fishing Union,
Gloucester, Mass.

HAYES,
Notary Public.

No. 78.

Mr. William H. Jordan to Mr. Bayard.

GLOUCESTER, MASS., June 4, 1886. [Received June 7.]

SIR: We see by recent dispatches from Halifax that the Canadian Government propose seizing schooner James A. Garfield whenever they have an opportunity, for having purchased bait and ice within their jurisdiction as they allege. The captain of the Garfield denies their charge of purchasing bait and ice, but that will make no difference about the seizure of the vessel, and if seized will be condemned whether guilty or not, judging from our past experience, as we had a vessel seized some years since (schooner A. I. Franklin) and condemned for alleged violation of their laws, and we had *absolute knowledge* that their charge was not correct in whole or in part. What we want to know is this: Can we be sustained by our Government in resisting capture to the best of our ability, where we are sure we have not violated their laws, and so instruct our captains?

We have another case, occurring about four weeks ago. The captain of schooner Annie H. Jordan wished to purchase bait at St. Andrews, New Brunswick. He had a permit to touch and trade, but being afraid of trouble he anchored the vessel outside the three-mile limit and went ashore in a dory to enter vessel at custom-house. The collector refused to allow him to enter his vessel, and ordered him to leave forthwith, saying they would have nothing to do with his vessel.

Yours, respectfully,

WM. H. JORDAN,
Secretary American Fishing Union
(Firm of Rowe & Jordan).

No. 79.

Mr. Steele to Mr. Bayard.

GLOUCESTER, MASS., June 5, 1886. [Received June 7.]

SIR: I inclose the master of the schooner Alice M. Jordan's affidavit for your consideration.

Yours, truly, &c.,

GEO. STEELE,
President American Fishery Union.

[Inclosure No. 1.]

UNITED STATES OF AMERICA.
District of Massachusetts:

I, Alexander Hains, of Gloucester, State of Massachusetts, on my oath do say that I was master of the schooner Annie M. Jordan, enrolled and licensed at Gloucester, Mass, when she sailed on a fishing voyage for cod and halibut on the 26th day of April, A. D. 1886, and further say that before I sailed I applied at the custom-house for and received a permit to touch and trade at foreign ports during my said voyage.

I further say that on the 4th day of May, 1886, I arrived and anchored at St. Andrews, New Brunswick, in the Dominion of Canada, and went ashore to the custom-

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house at that port, where I reported my arrival; applied to the collector, or person representing the collector, to enter my vessel for purposes of purchasing and exporting certain merchandise therein.

Said person refused to receive my papers and admit me to an entry, saying my papers were of no account. I asked why, and stated I had a permit to touch and trade from the United States authorities at Gloucester.

It was replied to me by said custom-house officer that it made no difference; my vessel had no business in these waters, and that she would be seized by the Canadian authorities if she was here when the cutter came into port. Being thus refused an entry, I returned to my vessel and left the port.

I arrived in Gloucester, Mass., May 28, 1886. I further say that damage to my voyage and loss has accrued to the owners of said vessel, Rowe & Jordan, of Gloucester, from the refusal to admit her to an entry, and I further say that I anchored in said port and reported in good faith for purpose of trade, under the belief that the laws of Great Britain gave to vessels of the United States all the privilege of trade and export from British North America which British vessels enjoyed.

ALEXANDER HAINS,
Master of Schooner *Annie M. Jordan*.

MASSACHUSETTS, Essex, ss :

JUNE 5, 1886.

Personally appeared Alexander Hains, and made oath to the truth of the above statement.

Before me,
[SEAL.]

AARON PARSONS,
Notary Public.

[Inclosure No. 2.]

Permit or license to touch and trade.

UNITED STATES OF AMERICA, DISTRICT OF GLOUCESTER,
Port of Gloucester, April 26, 1886.

Permission is hereby granted to A. Hains, master of the schooner named the *Annie M. Jordan*, of Gloucester, burden 91²⁰/₁₀₀ tons, which schooner was licensed for carrying on the fishery by D. S. Presson, collector of the district of Gloucester, in the State of Massachusetts, on the 4th day of January, 1886, to touch and trade at any foreign port or place during her voyage presently to be made.

Given under my hand and seal the day and year above mentioned.

D. S. PRESSON,
Collector, Naval Officer.

Surrendered June 1, 1886.

No. 80.

Mr. Steele to Mr. Bayard..

GLOUCESTER, MASS., June 5, 1886. [Received June 7.]

SIR: I take the liberty to write to you in regard to the present relation of American fisheries with England and her provinces.

I first desire to call attention to the reciprocity treaty of 1854, during which the Government paid fisherman a bounty of \$4 per ton, which was an assistance to us, and helped in part offset the remittance of duties on foreign fish during that period.

During the treaty of Washington, which expired by limitation, we received no bounty from our Government, that having been abolished in 1866, and we felt the effect of the second reciprocity treaty more than the one covering the years 1854 to 1866 inclusive.

We have no occasion to regret the action of the Government in allowing the treaty of Washington to expire by limitation, and we are also pleased at the action of the House of Representatives in granting the President the power to deny to foreign nations the same commercial rights denied us in their ports.

If it is the pleasure of the President to use that power, I think it would meet the approval of every person interested in the fishing business, both the property owner and the individual fisherman, but if this power to pass retaliatory measures the President does not see fit to use, we earnestly beg that the settlement of so important a matter will not be left with ministers or commissioners to arbitrate on our existing fishery rights or make new treaty definitions, because we have seen that diplomacy is untrained in commercial affairs, and incapable of appreciating the business and commercial effects following contracts concerning them, and we know that long or permanent contracts on such subjects are a mere gambling with interests where consequences can rarely be foreseen at the time they are made.

We have an invincible dread that in such negotiations in the future as in the past our interests would be sacrificed to Canadian interests.

We think the powers Congress has delegated to the President are enough for the protection of our right to trade with Canadian ports, if he use them with his usual firmness and sense of justice. Should he be reluctant to do this, still we do not desire to obtain privileges of trade by another treaty. We prefer to accept the present situation, even if more seizures and more exclusion from Canadian ports are practiced on our vessels touching there for trade. We had better lose twenty vessels or even fifty, than that we should enter into another such treaty with England.

We know full well that Canada would use any and all means, no matter how barbarous, to drive our Government into a reciprocity treaty again, and we think this is the object of her present conduct.

We thank you for furnishing counsel to look after the individual interests at the trial of these cases in the admiralty court at Halifax, as no individual ought to be compelled to bear the burden of cases of this nature in foreign courts.

I desire to bring to your attention that the mackerel fleet of the United States will sail from about the 15th of June to July 1, for the eastward; a few have already gone.

The Canadians have a fleet of cruisers as they say to guard their three-mile limit from the intrusion of our craft, but as we think to prey on our vessels without regard to the distance of three miles from the shores. Owners here instruct their masters to keep out of the three-mile limit in good faith. It is American property that is at risk and the American right on the high seas, outside of the three-mile question, that is to be guarded from encroachment.

The "men-of-war" of the United States should be at hand to protect our flag, our citizens and their property.

What are the spoils derived from the confiscation and dividing of the prey of half a dozen bait-buying smacks entering their ports, compared to the chances of capture among three to five hundred sail of mackerelmen who may lawfully fish within a fathom outside of the three-mile limit, and on whom Canadian law devolves the burden of proof, that where they lay was more than three miles? Whilst by the same law the seizure is primary proof that the prize was within the three-mile limit. If a hundred sail were in sight at the seizure, what means has the arrested master to ascertain their names to obtain their testimony

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in a prize court? We are content to live by the three-mile limit honestly construed; but the Government should protect us in our lawful side of it, and secure to us an honest construction of the treaty clause.

This extract from a letter in the Boston Herald of June 4, 1886, written from Cape Breton, shows the animus of the provincials:

Three American mackerel seiners passed through the straits this morning bound for North Bay. They will be closely watched by the Howlett and customs officers. The bounty on a seizure would amount to at least \$2,000, and every person in authority on the coast lies awake nights thinking how he can make an arrest of some unlucky Yankee fisherman. If sufficient ground is given there is not a doubt but what seizures will be made, as the bounty is a very substantial incentive outside of the credit to be gained therefrom. Yankees will do well to be cautious and avoid "the appearance of evil."

If a duty of 1 cent per pound could be put upon fresh and salt fish the Canadians would stop their overt acts and be brought to a realizing sense of the commercial rights of nations, quicker than any other way.

The fact is Canada has nothing whatever that she can compensate us with, for the privilege of the markets of the United States free for her fish.

Canada is fighting from business motives and nothing more, and if she succeeds in bullying the United States into any agreement by which she can bring in her fish free, said fish untaxed and bounty-fed with fishing grounds in close proximity, while we are heavily taxed, it would not take more than ten or twelve years to wipe out the Atlantic fisheries.

As well to allow English men-of-war to enter our ports and destroy our vessels and other property, as for us to see the humiliating spectacle of our fishing industry passing under the control of the English flag, through the default of our Government, an industry that all other Governments afford ample protection.

My own personal experience as owner of twelve fishing vessels; an experience in this business, on this coast, in the Gulf of St. Lawrence, on the Newfoundland coast, and on the Grand and Western Banks, directly and indirectly since the year 1848, proves to me conclusively that in what I have here written I voice the sentiments of every man in the fishing business, whether owner or fisherman.

I am, respected sir, yours, very respectfully,

GEO. STEELE.

No. 81.

Mr. Bayard to Mr. Steele.

DEPARTMENT OF STATE,
Washington, June 7, 1886.

SIR: I have to-day received your letter dated the 5th instant, accompanied by the affidavit of the master of the fishing schooner Alice M. Jordan, of Gloucester Mass., alleging the refusal by the collector of customs at the port of St. Andrews, New Brunswick, to allow the entry of said vessel, duly documented as a fishing vessel, with permission to launch and trade at any foreign port or place during her voyage, the object of such entry, as stated by the master of the schooner, being the purchase of certain merchandise.

Although not disclosed by the affidavits, I suppose the merchandise in question was fresh fish for use as bait in deep-sea fishing.

I have made instant representation, accompanied by earnest protest, to the British minister at this capital, of this unlawful withholding of commercial rights from an American vessel and her owners, and of the loss and damage thereby sustained, for which, as I have informed him, the Government of Great Britain will be held responsible.

I have, &c.,

T. F. BAYARD.

GEORGE STEELE, Esq., Gloucester, Mass.

No. 82.

Mr. Bayard to Mr. Steele.

DEPARTMENT OF STATE,
Washington, June 8, 1886.

SIR: I have received your letter of June 5, giving at length your views upon the present "relation of American fisheries with England and her provinces."

Your discussion of the situation is comprehensive, and will receive due consideration.

The chief remedy you propose—the levy of a tariff duty of 1 cent per pound upon fresh and salt fish—is, of course, solely for the consideration of Congress.

The object and earnest endeavor of the Executive will be to secure American citizens the full enjoyment of all the rights under treaties and law without molestation, and no effort to that end has been or will be lacking on the part of those charged with the administration of the laws.

I am, &c.,

T. F. BAYARD.

GEORGE STEELE, Esq., Gloucester, Mass.

No. 83.

Mr. Bayard to Mr. Jordan.

DEPARTMENT OF STATE,
Washington, June 8, 1886.

SIR: Your letter of the 4th instant was received yesterday, and that portion of it which relates to the refusal of the collector of the port of St. Andrews, New Brunswick, to sell bait to the captain of the Annie H. Jordan has already been made the subject of a letter from this Department to George Steele, esq., president of the American Fishery Union, of which you sign yourself the secretary.

It is impossible to meet all the rumors of proposed unfriendly action by the Canadian authorities towards the fishing vessels of the United States. Each case will be properly treated as it actually occurs.

But it is very clear that as the United States expect and require implicit obedience to their own laws within their jurisdiction, and severely reprehend and punish forcible resistance by individuals to their exec-

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tion, in like manner they expect their citizens and counsel them, when within foreign jurisdiction, to obey strictly the laws and regulations there in force, and to abstain from any resort to force as a remedy for supposed injustice or irregularity.

It is the purpose and intention of those charged with the execution of the law of the United States to see that law-abiding American citizens are secure in the enjoyment of their rights every where on land and sea, and when such rights are invaded under public authority to obtain redress.

I am, &c.,

T. F. BAYARD.

WILLIAM H. JORDAN, Esq.,

Secretary of the American Fishery Union, Gloucester, Mass.

No. 84.

Capt. Jesse Lewis to Mr. Bayard.

GLoucester, June 26, 1886. [Received June 28.]

DEAR SIR: I write for information as regards the seizure of my vessel, the schooner David J. Adams, by Canadians. What I want to know is what is to be done, whether my vessel is condemned as my loss, or if there is any way that we could demand a trial to see just what the consequences will be, or why I cannot bond my vessel as I want here to use. I am a poor man, and that vessel is my only support. Now, I think it is injustice to me as matters now stand. Please answer this letter soon, as I want something done about it.

Yours, very respectfully,

JESSE LEWIS.

No. 85.

Mr. Bayard to Capt. Jesse Lewis.

DEPARTMENT OF STATE,
Washington, June 30, 1886.

SIR: I have your letter dated the 26th instant, stating the severe loss occasioned by the summary seizure by the Canadian authorities, in Annapolis Basin, Nova Scotia, of your fishing schooner, the David Adams, which, as you say, is all the property you possess, and constitutes your "only support."

It is proper that I should inform you that the demand was made upon the Government of Great Britain for the release of the vessel, coupled with a notification that that Government would be held answerable for loss and damage caused by her seizure and detention.

Your case commands my sincere sympathy, and ever since it was brought to my knowledge has had the constant consideration of this Department and of the consular officers of the United States in the Dominion of Canada.

Mr. William L. Putnam, of Portland, Me., in conjunction with Mr. George W. Biddle, of Philadelphia, has been engaged by this Government as its counsel in respect of its rights and duties which may be brought in question by reason of the seizure of your vessel.

If you will communicate with Mr. Putnam he will no doubt give you all information in his power in relation to the laws under which your property was so seized, and suggest what steps should be taken to protect your private interest in the premises.

Moreover, I suggest that you should carefully secure evidence of all the facts connected with the presence of your vessel in Annapolis Basin, and of the absence of any unlawful act or intent on the part of her master, crew, or owner, as well as proof of the actual loss and injury sustained by you by reason of this harsh, and, as I believe, wholly unwarranted action by the Canadian officials; such evidence to be obtained and preserved as the basis of claims for your remuneration.

More than one year ago I sought to protect our citizens engaged in fishing from the results which might attend any possible misunderstanding between the Governments of Great Britain and the United States as to the measure of their mutual rights and privileges in the territorial waters of British North America, after the termination of the fishery articles of the treaty of Washington in June last.

It seemed to me then and seems to me now very hard that differences of opinion between the two Governments should cause loss to the honest citizens whose line of obedience might be thus rendered vague and uncertain, and their property be brought into jeopardy.

Influenced by this feeling, I procured a temporary arrangement which secured our fishermen full enjoyment of all the Canadian fisheries, free from molestation during a period which would permit discussion of a just international settlement of the whole fishery question. But other counsels prevailed, and my efforts further to protect the fishermen from such trouble as you now suffer were unavailing.

To secure for them full protection in the enjoyment of all their just rights and privileges is still my earnest intent and object, and for all losses to which they may be unlawfully subjected at the hands of the authorities of foreign Governments I shall seek and expect to obtain full redress.

I regret exceedingly the disturbance in their long-customary pursuits and the serious loss and inconvenience attendant upon a disputed construction of laws and treaties by two separate Governments; and I trust that I shall soon be enabled to secure such a clear and comprehensive declaration of agreement between those charged with the administration of the two Governments as will define the line of their rights and secure from molestation those American fishermen who, obeying the injunctions of their Government respecting subordination to the laws of foreign Governments, keep within the laws of their own country.

Reparation for all losses, unlawfully caused by foreign authority, will be made the subject of international presentation and demand.

I am, &c.,

T. F. BAYARD.

Capt. JESSE LEWIS,
Owner of the Schooner *David J. Adams*, Gloucester, Mass.
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No. 86.

Mr. Willard to Mr. Bayard.

[Telegram.]

PORTLAND, ME., July 3, 1886. [Received July 4.]

We have received the following dispatch from Shelburne, Nova Scotia, to-day, viz:

Cushing boarded last night 8 miles from custom-house. Brought here seized to-day. Charge, seeking bait and not reporting at custom-house. Have not bought anything. Wire instructions.

C. B. JEWETT.

She left here last Tuesday with the understanding you had settled the right of our vessels to buy bait. How long are we to be tormented in this kind of style? If it is to continue long we should prefer to haul our vessels up. It seems to us about time the President issued his non-intercourse proclamation and settled this thing one way or the other.

Please instruct us what to do under the circumstances, as she is a valuable vessel.

E. G. WILLARD.

No. 87.

Messrs. Cushing and McKenney to Mr. Bayard.

[Telegram.]

PORTLAND, ME., July 3, 1886. [Received July —.]

Our schooner City Point seized in Shelburne, Nova Scotia, for taking in water and allowing men ashore before reporting. Please give instructions.

CUSHING & MCKENNEY.

No. 88.

Mr. Woodbury to Mr. Bayard.

BOSTON, July 7, 1886. [Received July 10.]

SIR: I forward twelve affidavits of respectable fishermen of Gloucester laying the foundation to show that the Canadian authorities have this year, without notice, radically reversed their administration of laws toward American bait buyers and others. That thereby some of our fishermen have been entrapped and seized is well known to you. I retain a duplicate set, for use in case a suit is brought for a penalty of \$400 against an assumed master of the D. J. Adams, which the customs authorities allege has been incurred.

I have sent these in the expectation that, in the varying phases these Canadian assaults on our commerce assume, these facts may be useful to the Department, if not in the matter of the D. J. Adams.

I have, &c.,

CHAS. LEVI WOODBURY.

[Inclosure No. 1.]

I, Frank Foster, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fifteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Shelburne, Digby, Grand Manan, Blies Island, Argyle; and further says not.

[L. S.]

FRANK FOSTER.

AARON PARSONS,
Notary Public

[Inclosure No. 2.]

I, Zebulon Tarr, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last thirty-one years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Canso, Cape North Bay, St. Anne, Margaree; and further says not.

[L. S.]

ZEBULON TARR.

AARON PARSONS,
Notary Public

[Inclosure No. 3.]

I, John Collins, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last thirty-seven years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Canso, Georgetown, Yarmouth, Digby, Cape Negro, Tusket Island, Scatar, Sydney, Louisburg, White Head; and further says not.

[L. S.]

JOHN COLLINS.

AARON PARSONS,
Notary Public

[Inclosure No. 4.]

I, Jesse Lewis, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in course of my calling during the last forty-five years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Yarmouth, Cape Negro, Halifax,

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Shelburne, Liscomb, Country Harbor, White Head, Canso, La Have, Liverpool, Ransberry Harbor, Souris, Georgetown, Charlottetown, Manepeck; and further says not.
[L. S.]

AARON PARSONS,
Notary Public.

[Inclosure No. 5.]

I, George H. Martin, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last 23 years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purposes was required to report at the nearest custom-house or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Digby, Brier Island, Tusket Island, Pubnico, Barrington, John's Island, Shelburne, Liverpool, Margaret Bay, Dover, Prospect, Cat's Harbor, Isaac's Harbor, Liscomb, White Haven, Cape Canso, St. Peter's Bay, Louisburg, Judique, Sydney, St. Anne's Bay; and further says not.

[L. S.]

GEO. H. MARTIN,

AARON PARSONS,
Notary Public.

[Inclosure No. 6.]

I, James T. Simpson, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fourteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Digby, Campobello Island, St. Andrews, Bliss Island, Grand Manan, Beaver Island, St. Mary's Bay, Yarmouth, Cape Sable, Shelburne, Cape La Have, Sambro, White Head, Canso, St. Peter's Bay, Arichat, Louisburg, Sydney, St. Anne's Bay, Port Hood; and further says not.

[L. S.]

JAMES T. SIMPSON.

AARON PARSONS,
Notary Public.

[Inclosure No. 7.]

I, Simeon McCloud, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fourteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Wood Harbor, Green Cove, John's Island, Rayton's Island; and further says not.

[L. S.]

SIMEON McCLOUD.

AARON PARSONS,
Notary Public.

[Inclosure No. 8.]

I, Nathaniel P. Smith, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last thirty-five years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Digby, Brier Island, St. Andrews, Campobello Island, St. John, New Brunswick, Weymouth, Yarmouth, Argyle, Pubnico, Barrington, Gaspe, Cape Negro, Shelburne, Liverpool, Dover Harbor, Lunenburg, La Have, Prospect, Sambro, Halifax, Beaver Harbor, Country Harbor, White Head, Canso, Sydney, Arichat, Louisburg, Charlottetown, Georgetown, Souris, Camapee, Port Daniel, Ship Harbor; and further says not.

[L. s.]

NATHANIEL P. SMITH.

AARON PARSONS,

Notary Public.

[Inclosure No. 9.]

I, Thomas Jones, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fourteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Digby, Brier Island, Campobello Island, St. Andrews, Beaver Harbor, Bliss Island, Head Harbor, Yarmouth, St. Mary's Bay, Grand Manan, Cape Negro, Shelburne, Liverpool, Dover, Halifax, Canso, Sydney, Jeddore Harbor, Ship Harbor, Louisburg, Georgetown, Souris, Chaleur Bay; and further says not.

[L. s.]

THOMAS JONES.

AARON PARSONS,

Notary Public.

[Inclosure No. 10.]

I, Scott Geyer, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last twenty-five years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Grand Manan, Head Harbor, Campobello Island, Beaver Harbor, Digby, Bliss Island, Brier Island, Barrington, Cape Negro, Prospect, Cape Canso, Gut of Canso, White Head, Halifax, Liverpool, Shelburne, Georgetown, Souris, Charlottetown, Malpeque, Chaleur Bay; and further says not.

[L. s.]

SCOTT GEYER.

AARON PARSONS,

Notary Public.

[Inclosure No. 11.]

I, Edward Cantillon, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last thirteen years have entered many places and ports of Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

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[L. S.]

EDWARD CANTILLION,

Schooner Sylvester.

AARON PARSONS,

Notary Public.

[Inclosure No. 12.]

I, Jeffrey F. Gerroir, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fourteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: St. Andrews, New Brunswick; St. John, New Brunswick; Digby, Yarmouth, Br. rington, Shelburne, Liverpool, La Have, Lunenburg, Halifax, Dover, Arichat, Canso, Bedeque, St. Anne, Sydney, Port Hood, Louisburg, Charlottetown, Souris, Georgetown; and further says not.

[L. S.]

JEFFREY F. GERROIR.

AARON PARSONS,

Notary Public.

No. 89.

Mr. Willard to Mr. Bayard.

PORTLAND, ME.,

July 7, 1886. [Received July 9, 1886.]

DEAR SIR: We wired you the particulars of the seizure of our schooner George W. Cushing by the Canadian authorities. As yet we have no reply to our question as to what we should do in the matter. We suppose, however, that you are giving it the consideration that it deserves, and that we shall hear from you when you have reached a satisfactory conclusion.

This vessel we kept tied to the wharf three weeks, and only allowed her to go after we understood you had arranged matters and that our vessels could have all the privileges that we accorded to theirs. It seems that everybody here so understood it, and this is the cause of so many of our vessels calling at Nova Scotia ports for a week past. They notify us that we can have the vessel by the payment of a fine amounting to about \$600, and that she is not held for a violation of the treaty of 1818, but for violation of customs regulations. This is plainly only pretext, as they forbid our vessels the privilege of entering and purchasing supplies, as we understand their law, by the reading, it applies to vessels in the coasting trade, but if it applied to fishermen there has been only a technical violation, and where it can be plainly shown that there was no intent to evade the laws they ought to release the vessel, and the Government did in the case of the schooner Sisters, which was held for gross ignorance on the part of the skipper. The captain of this

S. Ex. 113—30

vessel has been getting bait and ice in their ports for thirty years, and until the present has never seen the inside of a custom house. Their vessels have always entered our ports and sold fresh fish, got supplies, and enjoyed privileges that even our own vessels have not enjoyed, but it seems that they are determined to harass our fishing vessels in hopes to drive us into letting them have our markets free, which, with the bounties they enjoy from the money our Government paid, they can destroy the business in New England and get a complete monopoly. We claim that it is not an actual necessity for our vessels to procure bait and ice in their ports, but it is more convenient, as it is nearer the fishing grounds. Only such vessels engaged in the halibut fishery ever get bait there. The cod-fishermen take salt bait from here, and besides we furnish their cod-fishermen in the spring with thousands of barrels of salt clams.

While we think that these are matters which require time and caution, we do not think there is a nation on earth that would have stood the petty bulldozing that this Government has for the last twenty years, and we are of the opinion that this matter requires more than ordinary attention and haste, for there may be a rupture at any time that might involve the Government far more than it could by pursuing a vigorous policy. Our fishermen are getting into a bad frame of mind, and men like these, used to hardship and peril, might not hesitate to do most anything. Of course we deprecate any such measures, but they are not wholly within our control.

Everybody's opinion is entitled to some weight, and we venture to give ours as to the best course to pursue.

We think that your Department ought to telegraph the Dominion Government that, inasmuch as the vessels seized have been guilty of only a technical violation of customs laws, that they ought to release the vessels on the same terms that our Government has always released theirs. If they refuse to do this, then the President, with the power given him by Congress, should give them notice that he should immediately issue his proclamation, declaring non-intercourse in all matters pertaining to the fisheries, and that from the 1st day of August no fish from the provinces can be landed in the United States and none exported from here thence, such decree to remain in force six months, unless sooner revoked.

The effect of this would be to bring them to terms very quick, as they are almost wholly dependent upon our market for the disposition of their fish, and without this privilege Nova Scotia is almost helpless.

For the honor of the old Democratic party something must be done. Three-quarters of the people engaged in this business are Democrats, and they have been made so by the actions of the Republicans in the past. We understand that there are those that would manufacture political capital out of this matter, but it is too serious a thing, and they can easily be handicapped by vigorous action in this matter by your Department.

As a faithful defender of the faith these many years, we pray that we may see one of the ends for which we have fought brought to a successful issue.

Please do not leave this important matter to assistants, and you will greatly oblige if you will let us know what we have to expect, and if we have any rights which Canada is bound to respect.

This is a private letter and is not given to the papers for publication, and if you will give us a reply in full we will treat it as confidential.

Yours respectfully, &c.,

E. G. WILLARD.

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No. 90.

Mr. Bayard to Mr. Willard.

DEPARTMENT OF STATE,

Washington, July 9, 1886.

SIR: Your telegram of the 3d, and your letter of the 7th instant, stating the seizure at Shelburne, Nova Scotia, by the local authorities of that port, of the schooner George W. Cushing, were duly received.

Before the receipt of either, news of this seizure had been received by this Department and instant instructions had been sent to the consul-general at Halifax to proceed to Shelburne and obtain full knowledge of all the facts and make full report to this Department of the cause of such seizure, and the nature of the complaint upon which such proceeding were founded.

In the absence of such authentic information it is impossible for this Department to take any action, or to give you advice.

As the contents of your telegram and letter disclose, you are well aware that questions are now pending between this Government and that of Great Britain in relation to the just definition of the rights of American fishing vessels in the territorial waters of British North America.

I shall relax no effort to arrive at a satisfactory solution of the difficulty, and in the mean time it is the duty and manifest interest of all American citizens entering Canadian jurisdiction to ascertain and obey the laws and regulations there in force.

For all unlawful deprivation of property or commercial rights this Government will expect to procure due redress and compensation for the innocent sufferers.

Very respectfully, yours,

T. F. BAYARD.

No. 91.

Hon. Mr. Boutelle to Mr. Bayard.

[Telegram.]

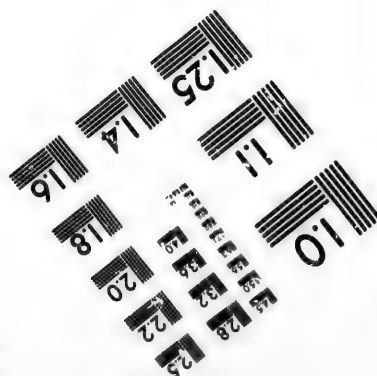
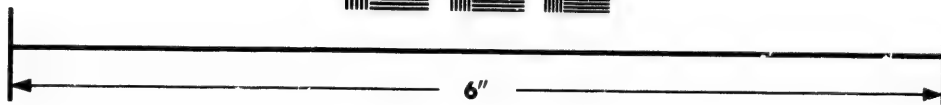
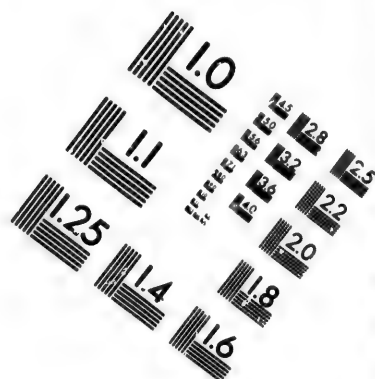
HOUSE OF REPRESENTATIVES,

July 10, 1886.

I have just received a dispatch from Eastport, Me., stating that American boats after herring for sardines at St. Andrews, New Brunswick, were driven away last night by the Dominion cruiser Middleton, and it is announced that no American boats will be allowed to take herring for any purpose. I earnestly invoke the immediate attention of the Department to this matter.

C. A. BOUTELLE.





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No. 92.

Mr. Bayard to Hon. Mr. Boutelle.

DEPARTMENT OF STATE,

July 10, 1886.

DEAR SIR: I have just received your telegram of this date, stating that you had a dispatch from Eastport, Me., that American boats after herring for sardines at St. Andrews, New Brunswick, were driven away by the Dominion cruiser Middleton, with the announcement that no American boats will be allowed to take herring for any purpose.

And to this you invoke the immediate attention of this Department. On the 2d of June last you called at this Department in company with Senator Hale, of Maine, and then drew my attention to a similar threat of interference with the purchase of small herring for canning as sardines from the Canadian weirs.

On the same day I made representation of the alleged threats to the British minister at this capital, and drew his attention to the alleged violation of lawful commercial intercourse between British subjects in Canada and the citizens of the United States.

I was in hopes that further interference with a recognized and legitimate trade would be prevented, but will again address the British minister on the subject.

It will assist materially in all such cases of alleged violation of commercial rights, if accurate and full statements of all the facts in each case are procured and forwarded to this Department accompanied by affidavits.

A great deal of loose rumor and sensational statement would be thus disposed of, and a tangible basis be laid for claim for compensation by the injured parties.

I have, &c.,

T. F. BAYARD.

No. 93.

Mr. Bayard to Mr. Woodbury.

DEPARTMENT OF STATE,

Washington, July 13, 1886.

SIR: Your letter dated July 7, with twelve affidavits of Gloucester fishermen alleging their long-continued custom of purchasing bait in places and ports in Nova Scotia to be used in deep-sea fishing, has been received, and shall be placed on file for future reference in connection with claims for compensation, growing out of the unlawful prevention of this usage by the Canadian authorities.

I am, &c.,

T. F. BAYARD.

No. 94.

*Hon. Mr. Boutelle to Mr. Bayard*HOUSE OF REPRESENTATIVES,
Washington, July 14, 1886. [Received July 5.]

SIR: Acknowledging receipt of your letter of 13th instant, stating that the view presented by me will receive due consideration, I beg to inclose herewith the affidavit of Stephen R. Balkam, of Eastport, setting forth the facts of the refusal of the commander of the cruiser Middleton to permit him to purchase herring at St. Andrews, New Brunswick, on Friday, July 9, 1886, as referred to in the telegram forwarded by me to the Department on the 10th instant.

I am, &c.,

C. A. BOUTELLE.

[Inclosure.]

I, Stephen R. Balkam, of Eastport, in the county of Washington, State of Maine, on oath declare that on Friday morning, July 9, 1886, I was at St. Andrews, N. B. My business was to procure herring for canning. I am employed by Hiram Planchard & Son. The Dominion cruiser Middleton was at anchor near the beacon at St. Andrews. A boat from the Middleton, commanded by Capt. William Kent, came alongside of my boat and asked if my boat was American, and where my boat was owned. I replied that the boat was owned at Eastport, Me. He then said I could not take any herring, and if I took any would be liable to be seized. He told me if I wished to get herring I must get an English boat; that I could not get herring with an American boat. It had been my practice to buy the herring of men who caught them in seines, they delivering the herring in the gunwale of my boat. On the day the Middleton drove me away I was paying \$10 per hogshead for the herring. The men of whom I bought them were Dominion fishermen. The captain of the Middleton then left me and went to other American boats and ordered them away. They left without having procured any fish. I took an English boat in tow that had taken fish from the seine, towed her into American waters, then took her fish, and came to Eastport.

STEPHEN R. BALKAM.

Sworn and subscribed before me this 12th day of July, 1886.

N. B. NUTT,
Justice of the Peace.

No. 95.

*Mr. Bayard to Hon. C. A. Boutelle.*DEPARTMENT OF STATE,
Washington, July 15, 1886.

SIR: I have your letter dated yesterday enclosing the affidavit of Stephen R. Balkam, relating the circumstances of his being ordered away from St. Andrews, New Brunswick, by the Dominion cruiser Middleton, Captain Kent, in July 9th instant, and the refusal by Captain Kent to allow the deponent to purchase fish caught and sold by Canadians for canning.

The affidavit shall be placed on file for reference.

Yours, &c.,

T. F. BAYARD.

No. 96.

Mr. Woodbury to Mr. Bayard.

BOSTON, July 28, 1886. [Received July 29.]

SIR: I have the honor to enclose for your consideration the affidavit of James McDonald, master of the schooner Thomas F. Bayard, who has been illegally driven from the waters of Bonne Bay, on the northwest coast of Newfoundland, in direct violation of the treaty of 1818.

In this connection I would refer you to the fact that the British Government have twice declined to ratify laws of Newfoundland prohibiting the sale of bait (see Executive Document No. 84, Forty-sixth Congress, second session, House of Representatives, pp. 106-7): once when the Duke of Newcastle was minister, and again when Sir M. Hicks Beach was colonial secretary, in 1878. In 1885 I wrote to our minister at London requesting him to ascertain at the colonial office whether since 1878 any law of Newfoundland prohibiting the sale of bait to foreigners had been approved, and the reply furnished him was, none had been. This is the only instance of the kind from Newfoundland that has come to my knowledge. Captain McDonald sails to-morrow, but proof of his loss will be made up and transmitted to the Department.

I forwarded some time since some evidence as to the collector at Magdalen Islands denying treaty rights to our vessels. I inclose the affidavit of A. McEachern, master of the schooner Mascot, that he was denied at Fort Amherst, June 10th, any privilege except wood and water, and also threatened with seizure even if he should take a pilot. The Magdalen Islands, like the west coast of Newfoundland, are by treaty particularly stated to be places where the common rights of fishery on land or sea are to be enjoyed by both parties to the treaty.

I am, &c.,

CHAS. LEVI WOODBURY.

[Inclosures.]

1. Captain McDonald to Mr. Bayard. Gloucester, Mass., July 28, 1886. (Printed herewith.)

2. Sworn statement of Captain McDonald, dated July 28, 1886. (Printed as inclosure No. 1 to Mr. Phelps's note of September 11 to Lord Iddesleigh. See *ante*, No. 66, p. 147.)

3. Sworn statement of Alexander MacEachern, dated July 27, 1886. (*Ibid.* See *ante*, No. 66, p. 147.)

[Inclosure 1.]

Captain James McDonald to Mr. Bayard.

GLOUCESTER, July 28, 1886.

SIR: The schooner Thomas F. Bayard, of Gloucester, of which I am master and part owner, sailed from Gloucester June 22 on a trip after halibut, with license and trade permit. My supply of bait becoming exhausted, I entered the port of Bonne Bay, on the northwest coast of Newfoundland, for the purpose of procuring a supply of bait on July 12. Directly on anchoring, I reported at the custom-house to the collector and stated my object was to buy bait. Mr. Taylor, the collector of the port, immediately served upon me a notice, which I transmit herewith, to the effect that the presence of my vessel in the port was in violation of the articles of the convention

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of 1818, and also warned me not to buy bait. Having a copy of the Ottawa circular of March 5, 1886, with me, I produced it and read to the collector the treaty clause there printed, and argued with him that I had the treaty right to come in here. His reply was, in substance, that he must perform his duty and prevent me from buying bait. I returned to my vessel, and, fearing I should be seized if I bought bait or fished in the three-mile limit or remained, I sailed for home, and arrived at Gloucester July 26, my voyage being broken up, and having a small fare. I left one of the best chances to obtain a large fare of fish, that were very plentiful in the vicinity of the port. I estimate the losses of the vessel and crew at \$4,000, roughly.

I thought it proper to lay this matter before you that, if I had the right to fish on that coast, I might procure recompense and damages for the injury done my voyage.

I am, &c.,

JAMES McDONALD,
Master.

No. 97.

Mr. Bayard to Mr. Woodbury.

DEPARTMENT OF STATE,
Washington, July 30, 1886.

SIR: I beg to acknowledge your letter dated July 28, accompanied by the affidavit of Captain McDonald, of the schooner T. F. Bayard, and the notice given him at Bonne Bay, Newfoundland, and also the affidavit of Capt. Alexander McEachern, of the schooner Mascot.

These infractions of the rights of American citizens intended to be secured under the convention of 1818, have been duly brought to the notice of the British minister at this capital, and I have also sent copies of these papers to the United States minister at London, with instructions that the contents of the same be made known to the foreign office in order to prevent any further violation of the rights of our citizens, and that notice be given of the claim hereafter upon the Government of Great Britain for all loss and damage to the vessels in question and their owners, when the same shall have been ascertained, by reason of this unlawful action on the part of the authorities of Newfoundland and Magdalen Islands.

I am, &c.,

T. F. BAYARD.

No. 98.

Mr. Woodbury to Mr. Bayard.

BOSTON, July 30, 1886. [Received July 31.]

SIR: Herewith is transmitted the affidavit of the crew of the schooner Thomas F. Bayard, relative to her having been forced to abandon her fishing voyage on the northwest coast of Newfoundland, and return home, in consequence of a warning that she would be seized by the shore authorities if she fished or bought bait within the three-mile limit, which has been transmitted to the Department. My information is that the schooner has sailed on another trip.

I am, &c.,

CHAS. LEVI WOODBURY.

[Inclosure.]

Affidavit of captain and crew of schooner Thomas F. Bayard.

COMMONWEALTH OF MASSACHUSETTS, Essex, ss :

GLOUCESTER, July 29, 1886.

We, the undersigned, on oath declare and say that we were members of the crew of the schooner Thomas F. Bayard, of the port of Gloucester, on the trip that commenced June 15, 1886, and ended July 19. We entered Port Mulgrave, and were informed that we had a right to fish in the northwest coast of Newfoundland. We entered Bonne Bay July 12, and were forbid to buy bait or to fish, and returned home with but a small part of a fare. The fishermen at Bonne Bay were anxious to sell bait to us if we could buy. We know the fish were there, and if we had been allowed to buy bait and to fish should have procured a full fare.

ALEX. McDONALD.

JAMES LANGLEY.

DAVID CAMPBELL.

his

MILTON + ATKINS.

mark.

his

JOHN + McNEIL.

mark.

JOHN McEACHERN.

ANGUS McDONALD.

PETER McALPIN.

EUGENE NICKERSON.

WILLIAM ATKINSON.

his

WILLIAM + DE CORTE.

mark.

his

DANIEL + McCORMICK.

mark.

COMMONWEALTH OF MASSACHUSETTS, Essex, ss :

GLOUCESTER, July 29, 1886.

Personally appeared the above-named Alexander McDonald, Angus McDonald, James Langley, Peter McAlpin, Daniel Campbell, Eugene Nickerson, Milton Atkins, William Atkinson, John McNeil, William De Corte, John McEachern, and Daniel McCormick, and on oath declared the above statement by them subscribed to be true.

[L. s.]

AARON PARSONS,

Notary Public.

No. 99.

Mr. Bayard to Mr. Woodbury.

DEPARTMENT OF STATE,

Washington, July 31, 1886.

SIR: I beg to acknowledge your letter of yesterday accompanied by the affidavit of Alexander McDonald and eleven others, members of the crew of the schooner Thomas F. Bayard, of Gloucester, stating the refusal of the local officials at Bonne Bay, Newfoundland, to permit fishing or the purchase of bait on that coast.

The subject to which this paper relates received due attention yesterday, as you were advised.

I am, &c.,

T. F. BAYARD.

No. 100.

Mr. Presson to Mr. Bayard.

COLLECTOR'S OFFICE,

Gloucester, Mass., August 9, 1886. [Received August 11.]

SIR: I am requested to forward the inclosed affidavit of Capt. Daniel McDonald of schooner Hereward, of Gloucester, in regard to his detention at Cape Canso, Nova Scotia, July 2.

Very respectfully, &c.,

D. S. PRESSON,

Collector.

[Inclosure.]

Affidavit of Captain McDonald, of the schooner Hereward.

GLOUCESTER, August 6, 1886.

I, Daniel McDonald, master of American schooner Hereward, of Gloucester, do depose and say: That I went into Cape Canso, N. S., with my vessel, on the afternoon of July 2, and went to the custom-house and reported. One of my crew went on shore without authority and failed to return at night; some of the crew thought he had deserted and engaged another man to take his place (all without any authority from me), but he returned the next morning.

The next morning the collector, Mr. Young, came on board and demanded my papers (charging me with shipping a man). I gave them to him, and he kept them until 10.30 o'clock that eve, when he returned them to me. As I was all ready to sail that morning, it detained the vessel two (2) days in that port, as the next day was Sunday.

DANIEL M'DONALD.

MASSACHUSETTS, Essex, ss :

AUGUST 6, 1886.

Personally appeared D. McDonald, and made oath to the above.

Before me.
[L. S.]AARON PARSONS,
Notary Public.

No. 101.

Mr. Presson to Mr. Bayard.

CUSTOM-HOUSE, GLOUCESTER, MASS.,

Collector's Office, August 10, 1886. [Received August 11.]

SIR: In reply to your telegram of 5th instant I inclose affidavits of Captain Cunningham, of schooner Rattler, and his passenger and crew, in relation to their treatment at Shelburne, Nova Scotia, on going in there for shelter on 3d instant.

Very respectfully, &c.,

D. S. PRESSON,
Collector.

[Inclosure.]

Affidavit of Captain Cunningham, of the schooner Rattler.

I, Augustus F. Cunningham, master of the schooner Rattler, of Gloucester, being duly sworn, do depose and say: That on Thursday, July 8, 1886, we sailed from Gloucester on a mackerel cruise. On Tuesday August 3d (having secured a fare of mackerel and while on on our passage home), at 7 p. m., the wind blowing hard, the sea being rough, and our vessel being deeply loaded, with two large seine-boats on deck, we put into the harbor of Shelburne, N. S., for shelter. Just inside of the harbor we were brought to by a gun fired from the Canadian cruiser Terror, Captain Quigley, and came to anchor.

Immediately a boat from the Terror came alongside and its commander, Lieutenant Bennett, asked why we were in the harbor. My reply was, "For shelter." Then taking the name of our vessel, names of owner and captain, where from, where bound, and how many fish we had, and forbidding any of the crew to go on shore, he returned to the Terror for further instructions.

Boarding us again, after a lapse of perhaps forty-five minutes, he put two armed men on board of us, asked for our crew-list, and said if I remained until morning I must enter at the custom-house, but if I could sail in the night to tell his men to fire a revolver and a boat would be sent to take them off. At 12 o'clock that night, preferring to risk the dangers of the sea to the danger of seizure, I ordered the anchor hove short,

the mainsail hoisted preparatory to sailing, and told one of the Terror's men to fire a revolver, which he did.

Receiving no reply, and seeing no signs of life on board the Terror, I ordered the revolver to be fired again. This brought a boat from the Terror, commanded by First Lieutenant Bennett, who boarded my schooner, gave each of the two men on board an extra revolver, and told me the orders of Captain Quigley were, that I should not leave the port until I had reported to the customs officer at Shelburne. Upon receipt of these orders I payed out the chain and lowered the mainsail. The boat went back to the Terror and immediately returned with Captain Quigley on board.

He denied the permission given me by his first officer to sail in the night and ordered me to go to Shelburne and enter and clear at the custom-house there.

I asked him how I should go, as we were 8 miles distant from the custom-house. His reply was, "I don't care, sir, how you go; but you must go there; and on your return show your clearance to me or suffer the consequences." He told me my vessel was in charge of his two men, and to them he gave these orders:

"Gunner, you will allow the captain to proceed to Shelburne with the vessel, come to anchor, take his dory and two men, no more, and go on shore to enter. Allow them to bring nothing off in their dory; and if a man puts his hand on the wheel to go to sea, chop his arm off or shoot him, as the case may require."

I asked him if the law was not very strict that did not allow a vessel arriving at night after office hours to proceed before daylight, and why the law was enforced. He replied, it was to prove that Canadian harbors were a benefit to American fishermen.

At daylight we got under way and started for Shelburne, and Lieutenant Bennett and four more armed men came on board. We arrived at Shelburne about 4.30 o'clock a. m. I went on shore with Lieutenant Bennett and his boat's crew, woke up Collector Atwood, who, after inquiring of the lieutenant if there were any charges against me, entered and cleared the vessel.

On my return to the vessel the lieutenant requested me to exhibit my clearance, which I did, and we were then allowed to depart. I would state that when we first entered the harbor of Shelburne a Canadian vessel entered just ahead of us, and who was unmolested, sailing at her pleasure during the night, which showed plainly that an American vessel was not accorded the same treatment in Canadian ports as are Canadian vessels, although, as the collector at Halifax informed me in June last, the same laws applied to Canadian vessels as to American vessels.

During the whole difficulty my language was respectful and I quietly submitted to the detention, to the sarcastic language and overbearing conduct of Captain Quigley, but I deem my treatment and detention severe and unjust and an outrage upon the international courtesy that should exist between two friendly nations.

A. F. CUNNINGHAM.

I, Lawson C. Rich, of Canton, N. Y., a passenger on board schooner Rattler with Captain Cunningham, do depose and say that the above statement of Captain Cunningham is true in every particular.

LAWSON CARTER RICH.

MASSACHUSETTS, *Essex*, ss :

AUGUST 9, 1866.

Personally appeared A. F. Cunningham and L. C. Rich and made oath to the truth of the above statement.

Before me.

[L. S.]

AARON PARSONS,
Notary Public.

We, William Bowie, Frederick Brooks, Charles Lowry, Charles Hart, George Vibert, John Hart, John Lowry, Daniel McLean, Alexander O'Neil, James Leverage, and Martin Guthrie, of the crew of schooner Rattler, do depose and say that the above statement of Captain Cunningham is true in every particular.

WM. BOWIE.	JOHN LOWRY.
FRED. BROOKS.	DAN. MCLEAN.
CHARLES LOWRY.	ALEX. O'NEIL.
CHARLES HART.	JAMES LEVERAGE.
GEORGE VIBERT.	MARTIN GUTHRIE.
JOHN G. HART.	

MASSACHUSETTS, *Essex*, ss :

AUGUST 10, 1866.

Personally appeared the above-named persons, crew of schooner Rattler, and made oath to the truth of the above.

Before me.

[L. S.]

AARON PARSONS,
Notary Public.

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No. 102.

*Mr. Presson to Mr. Bayard.*CUSTOM-HOUSE, GLOUCESTER, MASS.,
Collector's Office, August 14, 1886. [Received August 16.]

SIR: I inclose affidavit of Capt. Reuben Cameron, of schooner Golden Hind, of this port, who was forbidden to enter the harbor of Port Daniel, N. S., for water. This being a clear violation by the Canadian Government of the treaty of 1818, I respectfully submit the case for your consideration.

Very respectfully yours, &c.,

D. S. PRESSON,
Collector.

[Inclosure.]

Affidavit of Captain Cameron, of the schooner Golden Hind.

I, Reuben Cameron, master of the American schooner Golden Hind, of Gloucester, do depose and say: That we sailed from Gloucester July 3, 1886, bound to the Bay of St. Lawrence, on a fishing voyage. That on or about July 23, being out of water, started to go into the Bay of Chaleurs (Port Daniel) to fill water. At the entrance of the bay, four or five miles from land, was met by the Canadian schooner E. F. Conrad; an officer came on board, took my name, name of vessel, tonnage, name of owner, &c., and ordered me not to go into Bay of Chaleurs. He also furnished me with a printed "warning" with this indorsement written thereon: "Don't enter the Bay of Chaleurs, N. S." After this warning I put to sea, and was obliged to go across to Tignish, P. E. I., to obtain a supply of water for use of my crew.

This delayed me at least a week, and the loss of at least a good trip of mackerel, as during that time another vessel from the same firm, in five days, on the same fishing grounds, took 460 barrels of mackerel, and caused a loss to my owners of at least five thousand dollars (\$5,000).

REUBEN CAMERON.
Master.

We, the undersigned, a part of the crew of the schooner Golden Hind, do depose and say that the above statement of Captain Cameron is true in every particular.

JAMES A. POWELL.
GILBERT SMITH.

AUGUST 13, 1886.

MASSACHUSETTS, Essex, ss:

Personally appeared Renben Cameron, James A. Powell, and Gilbert Smith, and made oath to the above.
Before me.

[L. S.]

AARON PARSONS, N. P.

No. 103.

*Mr. Bayard to Mr. Presson.*DEPARTMENT OF STATE,
Washington, August 18, 1886.

SIR: In reply to your letter of the 14th instant, inclosing affidavits of Reuben Cameron, master of the schooner Golden Hind, setting forth that he was forbidden by officers of the Canadian Government from en-

tering the harbor of Port Daniels, in the Bay of Chaleurs, for the purpose of obtaining water, and that he was compelled to make a voyage to Prince Edward's Island to obtain such supply, involving a week's delay and consequent loss.

I have to inform you that immediate protest against this infraction of express treaty rights and violation of the rights of common hospitality has been made by me to the British minister at this capital, and notification given to him that claim will hereafter be made upon the Government of Great Britain for all loss incurred by the unwarranted action of the Canadian officials above stated.

Earnest request was also made that orders should be issued forthwith to prevent a repetition of such unlawful and unfriendly conduct towards our vessels engaged in fishing.

I am, &c.,

T. F. BAYARD.

D. S. PRESSON, Esq.,
Collector, Gloucester, Mass.

No. 104.

Mr. Bayard to Messrs. Cushing and McKenney.

DEPARTMENT OF STATE,
Washington, August 19, 1886.

GENTLEMEN: Referring to your complaint of the 3d of July last, concerning the detention of your fishing schooner *City Point*, by the Canadian authorities at the port of Shelburne, Nova Scotia, which was at once communicated to the British minister here, I have to inform you that her Britannic Majesty's Government has made reply, alleging that the master of the *City Point* committed a breach of the customs laws of the Dominion by not reporting to the customs authorities, and by landing part of the crew and luggage. It is further stated that the vessel in question was subsequently released on deposit of \$400.

It appears from this reply that no charge of violating the fishing laws, or infringing the treaty was made against the *City Point*, but that the sole allegation is the failure of her master to observe the customs regulations applicable to any vessel resorting to a port of entry, and communicating with the shore.

The United States consul-general at Halifax will be instructed to watch the case, and, in the event of the penalty being affirmed, to ascertain the laws and regulations on which such judgment rests.

I am, &c.,

T. F. BAYARD.

No. 105.

Mr. Woodbury to Mr. Bayard.

BOSTON, October 12, 1886. [Received October 13.]

SIR: Herewith please find the affidavits of Captain Kemp, of the American schooner *Pearl Nelson*; Henry Cook, her owner; William Babino, cook and steward; M. N. Gifford, cashier of bank, relative to

the detention of \$200 by the mate she had to discover gone ashore.

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P. S.—The consul's decision.

PEARL NELSON
District

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the detention of that schooner at Arichat, and the exaction of a deposit of \$200 by the authorities as the condition for her release. What statute she had violated, if any, those interested in her have been unable to discover. The only charge made was that a part of her crew had gone ashore in the night and returned in the morning.

The parties interested in her, believing that the exaction referred to was in violation of law, and of their rights as American citizens in calling at the port of a friendly nation, in stress of weather, respectfully desire the protection of the United States, and that the damages which have arisen to them by the illegal seizure, detention, and exaction may be reimbursed to them.

I have the honor, &c.,

CHAS. LEVI WOODBURY.
Pr. OWNER.

P. S.—The owners have transmitted duplicates of these affidavits to the consul at Halifax, for use before the Ottawa authorities, for remission.

(Inclosure No. 1.)

Affidavit of Captain Kemp, of the schooner Pearl Nelson.

PEARL NELSON, U. S. A.,
District of Massachusetts:

I, Mordock Kemp, of Provincetown, in Massachusetts, a citizen of the United States, on my oath do say: That I was master and part owner of the schooner Pearl Nelson, a vessel of the United States duly licensed —, 1886, for the fisheries, and holding a permit to touch and trade during the existence of said license.

I further say that the crew of said vessel were shipped on wages at Provincetown and Boston for a fishing voyage to the Grand Banks, and return to Provincetown for discharge. Said schooner, with license and permit as aforesaid, sailed May 29, 1886, from Provincetown, and in her passage home touched at Arichat, Cape Breton, driven in there by stress of weather. Sailed by the wind from Bank Quero, and blowing fresh a heavy sea running and foggy, made Point Michaux, 9 miles from Arichat. The vessel was deep; her dories floated on deck in her lee waist; wind being about west I concluded to make a harbor and wait for better weather and wind. I anchored the vessel in Arichat Harbor at 11 p. m., September 7, 1886. I had lost a man on the Grand Banks, named James Sampson, who belonged to Arichat, and I wanted to land his effects, if the customs officers would allow me to. Some of my crew belonged in that neighborhood. William Babino, my cook, and nine others of the crew took boats off the deck and went ashore without asking my permission. I saw them, but had never known that was any objection. I had been in this and other British North American ports frequently, and witnessed the landing from my own and other vessels' crews, but never before heard such landing was illegal or improper. These men took nothing from the vessel with them nor carried away anything but the clothes they wore.

From the time I left Provincetown I had been into no port any where. Next morning, after my arrival in Arichat, at 8½ o'clock, I went ashore to enter at the custom-house, and found it closed. I called at 9 o'clock and it was not open. I went again at 1 o'clock, and found the collector opening the office door. I made the regular inward report to him, and requested permission to land the clothes of James Sampson, who had been lost from my vessel on the Grand Banks. He told me he had sent a man for me. After I got there this man came in. The officer was holding my papers and told the man to go back and take charge of the vessel. I asked him why he held my papers; he replied, he seized her because I had allowed my men to go ashore before reporting at the custom-house; that all he would tell me was, he said he would telegraph to Ottawa and find out what to do with me; and he did telegraph immediately. About 5 o'clock p. m. the collector received an answer, and told me to deposit \$200 and the vessel would be released. The collector would not allow me to land this dead man's clothes until after I had paid the \$200 fine. I gave the clothes to the shop-keeper to be given to Sampson's widow or friends. I came out of Arichat about 11 a. m. on the 8th of September, 1886, having bought there one bushel of potatoes with the collector's permit and arrived at Provincetown September 14, 1886. I

sailed from Arichat with all my crew on board and had not at any time intended to leave any of my crew at that port. They were hired men shipped to be discharged on return at Provincetown, and on our arrival there were all paid off and discharged.

Some of the crew that went ashore at Arichat returned aboard as early as 7 o'clock, and all were aboard about the time the vessel was seized. I gave them no money there, and had none myself. I further say I did not enter Arichat with any intention of violating any law of the Dominion of Canada, nor for any business, but solely because of the stress of weather that had driven me there. It was mere kindness only that prompted me to offer to land Sampson's clothes there where his friends could get them. There was no profit to the vessel, crew, or myself expected in so doing, or attempted to be gained in entering the port of Arichat, other than shelter from stress of weather we had been under from Qu-ro Bank.

If any revenue law of Canada was violated by my vessel or by myself the same was done through ignorance and inadvertence, and not with any intention to defraud the revenue or offend the law.

MURDOCK KEMP.

Personally appeared before me Murdock Kemp, at Provincetown, State of Massachusetts, United States of America, this 27th day of September, 1886, who subscribed and made oath to the foregoing.

[SEAL.]

JAMES GIFFORD,
Notary Public.

[Inclosure No. 2.]

Affidavit of Henry Cook, owner of the schooner Pearl Nelson.

Personally appeared before me, James Gifford, deputy collector of customs at the port of Provincetown, in the District of Barnstable and State of Massachusetts, this 25th day of September, 1886, Henry Cook, of said Provincetown, who, being by me duly sworn, deposes and says that he is a citizen of the United States of America, a resident of said Provincetown, and managing owner of the schooner Pearl Nelson, of Provincetown, of which Murdock Kemp was master during a fishing voyage to the Grand Banks of Newfoundland, and which terminated on the 14th day of this month by the arrival of said vessel at this port.

The affiant further deposes that [previous?] to the sailing of said vessel to the Grand Banks he gave explicit instructions to Captain Kemp, as he also did to five other masters of Bank fishing vessels, to not enter any Canadian port on said voyage, going to or coming from said fishing banks, unless compelled to enter by disaster to the vessel or by stress of weather; and hence the masters were not supplied with any funds for themselves or their crews, nor authorized to draw drafts on me for payment of crew's wages, or for any purpose but for repairs in case of meeting with serious disaster.

He also deposes that the crew of said vessel Pearl Nelson consisted of fifteen men besides Captain Kemp; that five of them, viz, Cyprian Briand, Henry Briand, Romie Cardo, John McDonald, and William Babino ——— were shipped in Provincetown, and the balance, viz, Alexander Cardo, William Boudrot, Albert Robin, Andrew Frazer, Jeffrey Landry, Henry Duong, Henry Sampson, Alfred Langley, E. H. C. Lisboa, Duncan McKae, and James Sampson, were shipped in Boston, and were engaged to return directly to this port from the Grand Banks at the end of the voyage; and that excepting James Sampson, who was reported by Captain Kemp as lost on said banks, they did return to Provincetown, and were discharged here, and paid each one by draft on the First National Bank of Provincetown, which are now on file in said bank.

The affiant declares that if Captain Kemp violated any law of Canada in entering Arichat on the 7th of September, 1886, he did it unwittingly, and that the affiant feels that the collection of the \$200 fine imposed upon the Pearl Nelson is unwarranted by the circumstances under which the entry into that port was made.

HENRY COOK.

[Inclosure No. 3.]

Affidavit of William Babino, cook of the Pearl Nelson.

Personally appeared before me, James Gifford, deputy collector of customs of the port of Provincetown, district of Barnstable and State of Massachusetts, this 27th day of September, 1886, William Babino, who, being by me duly sworn, deposes and says

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that he served as cook on the schooner Pearl Nelson, of Provincetown, of which Murdock Kemp was master, during a fishing voyage to the Grand Banks of Newfoundland and return to this port the present fishing season; that he shipped in said vessel in Boston, State of Massachusetts, to be discharged in Provincetown, in said State; that on the homeward passage to this port the said vessel encountered a strong head wind with a heavy sea and a thick fog, and while off the coast of Cape Breton, N. S., the wind being still ahead with the sea, and the vessel making but little headway towards her destination, Captain Kemp, without before expressing any intention to run for that harbor, sailed her into Arichat, N. S. Arriving there about 11 o'clock on the night of September 7, 1886, and having anchored the vessel, the affiant and nine others of the crew left the vessel and went ashore, where he and the others remained the rest of the night without permission of the captain. We returned to the vessel the following morning, and about 10 o'clock that forenoon a customs officer came aboard the Pearl Nelson and seized her because, as he declared, the men had landed before the vessel was reported to the custom-house; that after the captain had paid a fine of \$200 the vessel was next day released, and sailed with all her crew on board for this port, where they arrived September 14, 1886, and were here all paid off in full and discharged.

The affiant further deposes he had not prior to the night of entering Arichat heard the captain say anything about entering there either for the purpose of landing the clothes and personal effects of James Sampson, one of the crew, who had been lost on the Grand Banks, and belonged to Arichat, or near there, nor for any other object.

He also deposes that neither he, nor, as he believes, neither of the 9 men who landed with the affiant, took with them any goods or effects whatever ashore, nor had he or they any knowledge or suspicion that their landing was in violation of any law or regulation of the Dominion of Canada.

WILLIAM PARINO.

JAMES GIFFORD,

Deputy Collector of Customs.

[SEAL.]

Personally appeared before me James Gifford, deputy collector of the port of Provincetown, district of Barnstable and State of Massachusetts, at said Provincetown, this 27th day of September, 1886, Moses N. Gifford, cashier of the First National Bank, in Provincetown aforesaid, and who being by me duly sworn, deposes and says that he paid, on the orders or checks of H. & S. Cook, a firm composed of Henry Cook and Sylvanus Cook, of this place, merchants and owners of fishing vessels, the following-named persons the following sums to—

Henry Sampson.....	\$73 79	Henry Duong.....	\$98 32
Alexander Cardo.....	113 70	Emygdio A. C. Lisboa.....	118 19
Jeffrey Landry.....	115 52	Duncan McRae.....	97 40
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Remie Cardo.....	80 44	William Boudrot.....	119 44
William Robin.....	170 80	Henry Briand.....	133 08
Alfred Langley.....	77 42	Andrew Frazer.....	117 70

on the 15th of September, 1886, and that names of the persons thus paid all appear as crew on the shipping articles of the schooner Pearl Nelson, of Provincetown, signed by them at Provincetown and Boston, in May, 1886, as appears by said articles.

MOSES N. GIFFORD,
Cashier.

[SEAL.]

JAMES GIFFORD,
Deputy Collector of Customs.

No. 106.

Mr. Fayard to Mr. Woodbury.

DEPARTMENT OF STATE,
Washington, October 15, 1886.

SIR: I have your letter of the 12th instant, accompanied by sundry affidavits, stating the deposit of \$200 by the master of the American fishing schooner Pearl Nelson, under the compulsion of the customs

officers at the port of Arichat, Cape Breton, the ground alleged for this action by the officials at Arichat being the unlawful landing of the crew of the Pearl Nelson before reporting at the custom-house.

The case will be presented to the British minister at this capital, and notification given to him that compensation will be demanded for violation of the treaty privileges, should the British Government be found liable for breach of international duty on examination of the law and facts.

Your obedient servant,

T. F. BAYARD.

No. 107.

Mr. Steele to Mr. Bayard.

GLoucester, MASS., October 18, 1886. [Received Oct. 20.]

SIR: The season is approaching when American vessels have been accustomed to buy herring at the Grand Manan Island and vicinity, and bring them to Boston, Gloucester, New York, and Philadelphia.

The present position of the Dominion Government as to that trade concerns our interests greatly, and the fish trade desires to be informed whether that Government now considers the purchase of herring as open to American vessels, either when registered or licensed, with permit to trade.

We do not wish to explore their power of seizing or detaining these vessels, or of inflicting fines. If they object to our vessels continuing in that business, we prefer to keep away from those shores until the Dominion Government is better advised.

I apply to you for this information, which our merchants need, because I know of no other mode of obtaining it in a reliable shape.

I am, &c.,

GEO. STEELE,

President American Fishery Union.

P. S.—This trade in winter herring has been carried on in our vessels almost exclusively for many years, and fifty or a hundred cargoes come in usually during the fall, winter, and spring.

They are largely consumed as food, and to some extent used as bait in our winter fishing to Georges and the Banks.

It is very rare for a British vessel to bring herring to our ports.

No. 108.

Mr. Bayard to Mr. Steele.

DEPARTMENT OF STATE,
Washington, October 20, 1886.

SIR: I have just received your letter of the 18th instant, inquiring of me whether American fishing vessels, registered as such, and furnished with license to touch and trade in foreign ports, can proceed to Canadian ports, there to purchase and bring home cargoes of herring, without danger of molestation by the local authorities of the Dominion.

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As you are well aware, a construction has been placed by the Dominion authorities upon the language of the treaty of 1818 between the United States and Great Britain under which they have assumed to exclude American fishing vessels from entrance into certain described territorial waters of Canada for any other than the three objects in the treaty mentioned—she'ar, repairs, and to obtain wood and water—and have insisted that the words "and for no other purpose whatever" were to be rigidly enforced according to the strict letter.

This position, I need not say to you, is not accepted by the United States, but is repelled and denied, and that this Department is now endeavoring to secure such a joint interpretation of the treaty in question, considered in connection with the subsequent legislation by Great Britain and the United States creating commercial rights in the citizens of both countries, as will enable our vessels, whether engaged in fishing or not, to enter the established ports of entry of British North America and purchase lawful merchandise of any character in open market.

The United States have no diplomatic intercourse with Canada, but conduct all such matters directly with the imperial Government, through its minister at this capital or through our own minister at St. James.

This creates circumlocution and delay which is unavoidable.

It is my object to relieve the question of the rights of our fishermen from all uncertainty, and to obtain such a conceded, unambiguous, and clear definition of their rights and duties in Canadian ports and waters as will enable them to pursue their legitimate business with certainty, and in this duty I am now engaged.

It would be well for you to state whether the vessels so sent to purchase herring are to be manned and fitted out so as to be able to take fish or to trade only.

When I have received your answer on the last point I will at once endeavor to obtain a plain response to your reasonable question, and will communicate a reply at the earliest practicable moment.

Respectfully, &c.,

T. F. BAYARD.

No. 109.

Mr. Steele to Mr. Bayard.

GLOUCESTER, MASS., October 25, 1886. [Received Oct. 27.]

SIR: I have the pleasure to acknowledge the receipt of your letter dated October 20.

My original inquiry referred both to vessels under license and to those sailing under a register. Your letter satisfies the inquiry as to those licensed for the fisheries.

We still desire to be informed as to whether vessels under registry of the United States will be allowed to enter at Grand Manan and other ports, and load and export herring to the United States.

Such vessels will be manned by a sailing crew, on wages, and not by fishing complement of sharemen, nor will they carry the fishing gear which such vessels use when fishing under a fishing license.

The fishing interests, I assure you, appreciate the courtesy of your offer to procure this information seasonably for them.

I remain, &c.,

GEO. STEELE,

President of the American Fishery Union.

IV.—EXTENSION OF CERTAIN FISHING RIGHTS UNDER THE TREATY OF WASHINGTON.

No. 110.

[Senate Ex. Doc. No. 32, Forty-ninth Congress, first session.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING, IN RESPONSE TO SENATE RESOLUTION OF JANUARY 5, 1886, INFORMATION RELATIVE TO THE EXTENSION OF CERTAIN FISHING RIGHTS UNDER THE TREATY OF WASHINGTON.

JANUARY 12, 1886.—Read and referred to the Committee on Foreign Relations and ordered to be printed

To the SENATE:

I transmit herewith, in response to a resolution of the Senate of the 5th instant, a report of the Secretary of State containing all the correspondence and information in the custody of his Department relative to the extension of certain fishing rights and privileges under the treaty of Washington from July 1, 1885, to January 1, 1886.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, January 12, 1886.

To the PRESIDENT:

In compliance with the resolution of the Senate of January 5, 1886, I herewith transmit a copy of all the correspondence between this Department and the representative of the Government of Great Britain in relation to the extension of certain fishing rights and privileges under the treaty of Washington from July 1, 1885, to January 1, 1886.

As part of this transaction the following paragraph of your late message to Congress seems appropriate for consideration in connection with the correspondence:

The termination of the fishing clauses of the treaty of Washington, in pursuance of the joint resolution of March 3, 1883, must have resulted in the abrupt cessation of the 1st of July of this year, in the midst of their ventures, of the operations of citizens of the United States engaged in fishing in British American waters, but for a diplomatic understanding reached with Her Majesty's Government in June last, where assurance was obtained that no interruption of those operations should take place during the current fishing season.

In the interest of good neighborhood and of the commercial intercourse of adjacent communities, the question of North American fisheries is one of much importance. Following out the intimation given by me when the extensory arrangement above described was negotiated, I recommend that the Congress provide for the appointment of a commission, in which the Governments of the United States and Great Britain shall be respectively represented, charged with the consideration and settlement, upon a just, equitable, and honorable basis, of the entire question of the fishing rights of the two Governments and their respective citizens on the coasts of the United States.

and British North America. The fishing interests being intimately related to other general questions dependent upon contiguity and intercourse, consideration thereof, small their equities, might also properly come within the purview of such a commission, and the fullest latitude of expression on both sides should be permitted.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,
January 12, 1886.

AGREEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN RESPECTING THE FISHERIES. CONCLUDED JUNE 22, 1885.

NOTICE.

By direction of the President, the undersigned, Secretary of State, hereby makes known to all whom it may concern that a temporary diplomatic agreement has been entered into between the Government of the United States and the Government of Her Britannic Majesty in relation to the fishing privileges which were granted by the fishery clauses of the treaty between the United States and Great Britain of May 8, 1871, whereby the privilege of fishing, which would otherwise have terminated with the treaty clauses on the 1st of July proximo, may continue to be enjoyed by the citizens and subjects of the two countries engaged in fishing operations throughout the season of 1885.

This agreement proceeds from the mutual good-will of the two Governments, and has been reached solely to avoid all misunderstanding and difficulties which might otherwise arise from the abrupt termination of the fishing of 1885 in the midst of the season. The immunity which is accorded by this agreement to the vessels belonging to citizens of the United States engaged in fishing in the British American waters will likewise be extended to British vessels and subjects engaged in fishing in the waters of the United States.

The joint resolution of Congress of March 3, 1883, providing for the termination of the fishing articles of the treaty of May 8, 1871, having been repealed in terms of the act of March 1, 1873, for the execution of the fishing articles, and that repeal being express and absolute from the date of the termination of the said fishing articles, under due notification given and proclaimed by the President of the United States, to wit, July 1, 1885, the present temporary agreement in no way affects the question of statutory enactment or exemption from customs duties, as to which the abrogation of the fishing articles remains complete.

As part of this agreement, the President will bring the whole question of the fisheries before Congress at its next session in December, and recommend the appointment of a joint commission by the Governments of the United States and Great Britain to consider the matter, in the interest of maintaining good neighborhood and friendly intercourse between the two countries, thus affording a prospect of negotiation for the development and extension of trade between the United States and British North America.

Copies of the memoranda and exchanged notes on which this temporary agreement rests are appended.

Reference is also made to the President's proclamation of January 1, 1885, terminating the fishing articles of the treaty of Washington.

By direction of the President:

T. F. BAYARD,
Secretary of State.

Appendices.

1. Mr. West's memorandum of March 12, 1885.
 2. Mr. Bayard to Mr. West, memorandum of April 22, 1885.
 3. Mr. West's memoranda of June 13, 1885.
 4. Mr. Bayard to Mr. West, June 19, 1885.
 5. Mr. West to Mr. Bayard, June 20, 1885.
 6. Mr. Bayard to Mr. West, June 20, 1885.
 7. Mr. Bayard to Mr. West, June 22, 1885.
 8. Mr. West to Mr. Bayard, June 22, 1885.
- President's proclamation, January 31, 1885.

1.—*Mr. West's memorandum of March 12, 1885.*

[Memorandum.—Confidential.]

The fishery clauses of the treaty of Washington of 1871 will expire on the 1st of July next. It has been represented by the Canadian Government that much inconvenience is likely to arise in consequence, unless some agreement can be made for an extension of the period.

When the time comes (1st of July next) American ships will be actually engaged in fishing within the territorial waters of the Dominion. These vessels will have been fitted out for the season's fishing and have made all their usual arrangements for following it up until its termination in the autumn. If, under these circumstances, the provincial or municipal authorities in Canada were to insist upon their strict rights, and to compel such vessels, under pain of seizure, to desist from fishing, considerable hardship would be occasioned to the owners, and a feeling of bitterness engendered on both sides, which it is clearly the interest of both Governments to avert.

It seems, therefore, desirable, in order to avoid such possible complications, that both Governments should come to an agreement under which the clauses might be in effect extended until the 1st of January, 1886.

If this were done the existing state of things would come to an end at a date between the fishery season of 1885 and that of 1886, and an abrupt transition at a moment when fishery operations were being carried on would be thus avoided.

WASHINGTON, March 12, 1885.

2.—*Mr. Bayard to Mr. West, April 22, 1885.*

[Memorandum of April 22, 1885.—Personal.]

DEPARTMENT OF STATE,
Washington, April 22, 1885.

DEAR MR. WEST: I have on several occasions lately, in conversation acquainted you with my interest in the fisheries memorandum which accompanied your personal letter of March 12.

Several informal talks I have had with Sir Ambrose Shea have enabled me to formulate the views of this Government upon the proposition made in behalf of the Dominion and the Province of Newfoundland, and I take pleasure in handing you herewith a memorandum

embodying the results. If this suits, I shall be happy to confirm the arrangement by an exchange of notes at your early convenience.

I am, my dear Mr. West, very sincerely yours,

T. F. BAYARD.

The Hon. L. S. SACKVILLE WEST, &c.

MEMORANDUM.

The legislation passed by the Congress of the United States, act of March 1, 1873, for the execution of the fishery articles of the treaty of Washington, has been repealed by the joint resolution of March 3, 1883, the repeal to take effect July 1, 1885. From that date the effects of the fisheries articles of the treaty of Washington absolutely determine, so far as their execution within the jurisdiction of the United States is concerned, and without new legislation by Congress modifying or postponing that repeal the Executive is not constitutionally competent to extend the reciprocal fisheries provisions of the treaty beyond the 1st of July next, the date fixed by the action of Congress.

Mr. West's memorandum of March 12, 1885, suggests the mutual practical convenience that would accrue from allowing the fishing ventures commenced prior to July 1, 1885, to continue until the end of the season for fishing of that year, thus preventing their abrupt termination in the midst of fishing operations on the 1st of July.

It has been, moreover, suggested on the part of the Province of Newfoundland and of the Dominion of Canada, that in view of the mutual benefit and convenience of the present local traffic, consisting of the purchase of ice, bait, wood, and general ship supplies by the citizens of the United States engaged in fishing from the inhabitants of the British American fishing coast, the usual operations of the fishing season of 1885 should be continued by the fishing vessels belonging to citizens of the United States until the end of the season of that year, and that the local authorities of Newfoundland and of the Dominion of Canada, in a spirit of amity and good neighborhood, should abstain from molesting such fishermen or impeding their progress or their local traffic with the inhabitants incidental to fishing during the remainder of the season of 1885, and all this with the understanding that the President of the United States would bring the whole question of the fisheries before Congress at its next session in December, and recommend the appointment of a commission in which the Governments of the United States and of Great Britain should be respectively represented, which commission should be charged with the consideration and settlement, upon a just, equitable, and honorable basis, of the entire question of the fishing rights of the two Governments and their respective citizens on the coasts of the United States and British North America.

The President of the United States would be prepared to recommend the adoption of such action by Congress with the understanding that in view and in consideration of such promised recommendation there should be no enforcement of restrictive and penal laws and regulations of the authorities of the Dominion of Canada or of the Province of Newfoundland, against the fishermen of the United States resorting to British American waters between the 1st of July next and the close of the present year's fishing season; the mutual object and intent being to avoid any annoyance to the individuals engaged in this business and traffic, and the irritation or ill-feeling that might be engendered by a

harsh or vexatious enforcement of stringent local regulations on the fishing coast pending an effort to have a just and amicable arrangement of an important and somewhat delicate question between the two nations.

Public knowledge of this understanding and arrangement can be given by an exchange of notes between Mr. West and myself, which can be given to the press.

3.—*Mr. West's memoranda of June 13, 1885.*

[Memoranda.]

It is proposed to state in notes according temporary arrangements respecting fisheries that an agreement has been arrived at under circumstances affording prospect of negotiation for development and extension of trade between the United States and British North America.

The government of Newfoundland do not make refunding of duties a condition of their acceptance of the proposed agreement, but they rely on it having due consideration before the international commission which may be appointed.

4.—*Mr. Bayard to Mr. West, June 19, 1885.*

[Confidential.]

DEPARTMENT OF STATE,
Washington, June 19, 1885.

MY DEAR MR. WEST: I assume that the two confidential memoranda you handed to me on the 13th instant embrace the acceptance by the Dominion and the British American coast provinces of the general features of my memorandum of April 21, concerning a temporary arrangement respecting the fisheries, with the understanding expressed on their side that the "agreement has been arrived at under circumstances affording prospect of negotiation for development and extension of trade between the United States and British North America."

To such a contingent understanding I can have no objection. Indeed I regard it as covered by the statement in my memorandum of May 21 that the arrangement therein contemplated would be reached "with the understanding that the President of the United States would bring the whole question of the fisheries before Congress at its next session in December, and recommend the appointment of a commission in which the Governments of the United States and of Great Britain should be respectively represented, which commission should be charged with the consideration and settlement, upon a just, equitable, and honorable basis, of the entire question of the fishing rights of the two Governments and their respective citizens on the coasts of the United States and British North America."

The equities of the question being before such a mixed commission would doubtless have the fullest latitude of expression and treatment on both sides; and the purpose in view being the maintenance of good neighborhood and intercourse between the two countries, the recommendation of any measures which the commission might deem necessary to attain those ends would seem to fall within its province, and such recommendations could not fail to receive attentive consideration

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I am not, therefore, prepared to state limits to the proposals to be brought forward in the suggested commission on behalf of either party.

I believe this statement will be satisfactory to you, and I should be pleased to be informed at the earliest day practicable of your acceptance of the understanding on behalf of British North America; and by this simple exchange of notes and memoranda the agreement will be completed in season to enable the President to make the result publicly known to the citizens engaged in the fishing on the British American Atlantic coast.

I have the honor to be, with the highest respect, sir, your obedient servant,

T. F. BAYARD.

The Hon. L. S. SACKVILLE WEST.

5.—*Mr. West to Mr. Bayard, June 20, 1885.*

[Confidential.]

BRITISH LEGATION,
Washington, June 20, 1885.

MY DEAR MR. BAYARD: I beg to acknowledge the receipt of your confidential note of yesterday's date, concerning the proposed temporary arrangement respecting the fisheries, which I am authorized by Her Majesty's Government to negotiate with you on behalf of the Government of the Dominion of Canada and the government of Newfoundland, to be effected by an exchange of notes founded on your memorandum of the 21st of April last.

The two confidential memoranda which I handed to you on the 13th instant contain, as you assume, the acceptance by the Dominion and the British American coast provinces of the general features of your above-mentioned memorandum, with the understanding expressed on their side that the agreement has been arrived at under circumstances affording prospects of negotiation for the development and extension of trade between the United States and British North America, a contingent understanding to which, as you state, you can have no objection, as you regard it: as covered by the terms of your memorandum of April 21.

In authorizing me to negotiate this agreement, Earl Granville states, as I have already had occasion to intimate to you, that it is on the distinct understanding that it is a temporary one, and that its conclusion must not be held to prejudice any claim which may be advanced to more satisfactory equivalents by the colonial governments in the course of the negotiation for a more permanent settlement. Earl Granville further wishes me to tell you that Her Majesty's Government and the colonial governments have consented to the arrangement solely as a mark of good will to the Government and people of the United States, and to avoid difficulties which might be raised by the termination of the fishery articles in the midst of a fishing season; and also the acceptance of such a *modus vivendi* does not, by any implication, affect the value of the inshore fisheries by the Governments of Canada and Newfoundland. I had occasion to remark to you that while the colonial governments are asked to guarantee immunity from interference to American vessels resorting to Canadian waters, no such immunity is

offered in your memorandum to Canadian vessels resorting to American waters, but that the Dominion Government presumed that the agreement in this respect would be mutual. As you accepted this view, it would, I think, be as well that mention should be made to this effect in the notes.

Under the reservations, as above indicated, in which I believe you acquiesce, I am prepared to accept the understanding on behalf of British North America, and to exchange notes in the above sense.

I have the honor to be, with the highest respect, sir, your obedient servant,

L. S. SACKVILLE WEST.

Hon. T. F. BAYARD, &c.

6.—*Mr. Bayard to Mr. West, June 20, 1885.*

DEPARTMENT OF STATE,
Washington, June 20, 1885.

SIR: I have just received your note of to-day's date in regard to the proposed temporary arrangement touching the fisheries.

Undoubtedly it is our clear and mutual understanding that the arrangement now made is only temporary, and that it proceeds from the mutual good will of our respective Governments, and solely to avoid all difficulties which might otherwise arise from the termination of the fishing of 1885 in the midst of the season.

I understand, also, that the same immunity which is accorded by this agreement to the vessels belonging to the citizens of the United States, engaged in fishing in the British American waters, will be extended to British vessels and subjects engaged in fishing in the waters of the United States. Perceiving, therefore, no substantial difference between our respective propositions and these statements as contained in our correspondence on the subject, I shall consider the agreement as embodied in our memoranda and the correspondence between us and as thus concluded; and public notification to that effect will be given in a few days by the President.

I have the honor to be, with the highest consideration, sir, your obedient servant,

T. F. BAYARD.

The Hon. L. S. SACKVILLE WEST, &c.

7.—*Mr. Bayard to Mr. West, June 22, 1885.*

DEPARTMENT OF STATE,
Washington, June 22, 1885.

SIR: In compliance with your verbal request of this morning that I should restate part of my note to you of the 19th, I repeat that the arrangement, whereby a *modus vivendi* on the fishing question has been reached, rests on the memoranda and correspondence exchanged; that your memorandum of the 13th instant expressed the understanding on your side that the "agreement has been arrived at under circumstances

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affording prospect of negotiation for development and extension of trade between the United States and British North America"; that I not only had no objection to such an understanding, but, in fact, regarded it as amply embraced in our proposal to recommend a commission to deal with the whole subject in the interest of good neighborhood and intercourse, and that the recommendation of any measures which the commission might deem necessary to attain those ends would seem to fall within its province, and such recommendations could not fail to have attentive consideration.

Having thus not only admitted the proviso of your memorandum in your own language, but gone still further and pointed out that no limits would be set, so far as I was concerned, to the proposals to be brought forward in the suggested commission on behalf of either party, I do not see how it is possible for me to give any stronger assurance that the understanding has "been reached under circumstances affording a prospect of negotiation for the development and extension of trade between the United States and British America."

I have the honor to be, with the highest consideration, sir,

T. F. BAYARD.

The Hon. L. S. SACKVILLE WEST, &c.

8.—*Mr. West to Mr. Bayard, June 22, 1885.*

WASHINGTON, June 22, 1885.

SIR: I have the honor to acknowledge the receipt of your notes of the 20th and 22d instant in regard to the proposed temporary arrangement touching the fisheries, in which you state that it is our clear and mutual understanding that such arrangement is only temporary, and that it proceeds from the mutual good-will of our respective Governments, and solely to avoid all difficulties which might otherwise arise from the termination of the fishing of 1885 in the midst of the season. Also that the same immunity which is accorded by this Government to the vessels belonging to the citizens of the United States engaged in fishing in the British American waters will be extended to British vessels and subjects engaged in fishing in the waters of the United States, and that the agreement has been reached under circumstances affording a prospect of negotiation for the development and extension of trade between the United States and British North America.

As therefore there exists no substantial difference between our respective propositions and the statements as contained in our correspondence on the subject, I shall consider the agreement as embodied in our memoranda and the correspondence between us as thus concluded, and shall inform Her Majesty's Government and the Governments of the Dominion of Canada and Newfoundland accordingly.

I have the honor to be, with the highest consideration, sir, your obedient servant,

L. S. SACKVILLE WEST.

Hon. T. F. BAYARD, &c.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas the Treaty concluded between the United States of America and her Majesty the Queen of Great Britain and Ireland, concluded at Washington on the 8th day of May, 1871, contains among other Articles the following, viz:

"ARTICLE XVIII."

"It is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States fishermen by the Convention between the United States and Great Britain, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell fish, on the sea coasts and shores, and in the bays, harbors, and creeks, of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the Colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that in so doing they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

"It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers are hereby reserved exclusively for British fishermen."

"ARTICLE XIX."

"It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States north of the thirty-ninth parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbors, and creeks of the said sea-coasts and shores of the United States, and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

"It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all other fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States."

"ARTICLE XX."

"It is agreed that the places designated by the Commissioners appointed under the first Article of the Treaty between the United States and Great Britain, concluded at Washington on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's Dominions and the United

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States, as places reserved from the common right of fishing under that Treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding articles. In case any question should arise between the Governments of the United States and of Her Britannic Majesty as to the common right of fishing in places not thus designated as reserved, it is agreed that a commission shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties, and authority as the Commission appointed under said first Article of the Treaty of the 5th of June, 1854."

"ARTICLE XXI."

"It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish oil and fish of all kinds, (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil,) being the produce of the fisheries of the United States, or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country, respectively, free of duty."

"ARTICLE XXII."

"Inasmuch as it is asserted by the Government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this Treaty are of greater value than those accorded by Articles XIX and XXI of this Treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States, it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this Treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty; and that any sum of money which the said Commissioners may so award shall be paid by the United States Government in a gross sum, within twelve months after such award shall have been given."

"ARTICLE XXIII."

"The Commissioners referred to in the preceding Article shall be appointed in the following manner, that is to say: One Commissioner shall be named by the President of the United States, one by Her Britannic Majesty, and a third by the President of the United States and Her Britannic Majesty conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date when this article shall take effect, then the third commissioner shall be named by the Representative at London of His Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any commissioner, or in the event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy."

"The Commissioners so named shall meet in the City of Halifax, in the Province of Nova Scotia, at the earliest convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide the matters referred to them to

the best of their judgment, and according to justice and equity; and such declaration shall be entered on the record of their proceedings.

"Each of the High Contracting Parties shall also name one person to attend the Commission as its agent, to represent it generally in all matters connected with the Commission."

"ARTICLE XXIV."

"The proceedings shall be conducted in such order as the Commissioners appointed under Articles XXII and XXIII of this Treaty shall determine. They shall be bound to receive such oral or written testimony as either Government may present. If either Party shall offer oral testimony, the other Party shall have the right of cross-examination, under such rules as the Commissioners shall prescribe.

"If in the case submitted to the Commissioners either Party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Commissioners, to produce the originals, or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Commissioners may require.

"The case on either side shall be closed within a period of six months from the date of the organization of the Commission, and the Commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the Commissioners under the circumstances contemplated in Article XXIII of this Treaty."

"ARTICLE XXV."

"The Commissioner shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a secretary and any other necessary officer or officers to assist them in the transaction of the business which may come before them.

"Each of the High Contracting Parties shall pay its own Commissioner and agent or counsel; all other expenses shall be defrayed by the two Governments in equal moieties."

"ARTICLE XXX."

"It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, subjects of Her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandise from one port or place within the territory of the United States upon the St. Lawrence, the Great Lakes, and the rivers connecting the same, to another port or place within the territory of the United States as aforesaid: Provided, That a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

"Citizens of the United States may for the like period carry in United States vessels, without payment of duty, goods, wares, or merchandise from one port or place within the Possessions of Her Britannic Majesty in North America to another port or place within the said Possessions: Provided, That a portion of such transportation is made through the territory of the United States by land carriage and in bond, under such

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rules and regulations as may be agreed upon between the Government of the United States and the Government of Her Britannic Majesty.

"The Government of the United States further engages not to impose any export duties on goods, wares, or merchandise carried under this article through the territory of the United States; and Her Majesty's Government engages to urge the Parliament of the Dominion of Canada and the Legislatures of the other colonies not to impose any export duties on goods, wares, or merchandise carried under this article; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend, during the period that such duties are imposed, the right of carrying granted under this article in favor of the subjects of Her Britannic Majesty.

"The Government of the United States may suspend the right of carrying granted in favor of the subjects of Her Britannic Majesty under this article, in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII."

"ARTICLE XXXII."

"It is further agreed that the provisions and stipulations of Articles XVIII to XXV of this Treaty, inclusive, shall extend to the Colony of Newfoundland, so far as they are applicable. But if the Imperial Parliament, the Legislature of Newfoundland, or the Congress of the United States, shall not embrace the Colony of Newfoundland in their laws enacted for carrying the foregoing articles into effect, then this article shall be of no effect; but the omission to make provision by law to give it effect by either of the legislative bodies aforesaid, shall not in any way impair any other articles of this Treaty."

And, whereas, pursuant to the provisions of Article XXXIII of said Treaty, due notice has been given to the Government of Her Britannic Majesty of the intention of the Government of the United States of America, to terminate the above recited article of the Treaty in question, on the 1st day of July, 1885;

And, whereas, pursuant to the terms of said Treaty, and of the notice given thereunder by the Government of the United States of America to that of Her Britannic Majesty, the above recited articles of the Treaty of Washington, concluded May 8, 1871, will expire and terminate on the 1st day of July, 1885:

Now, therefore, I Chester A. Arthur, President of the United States of America, do hereby give public notice that Articles XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXX, and XXXII, of the Treaty of Washington, concluded May 8, 1871, will expire and terminate on the 1st day of July, 1885, and all citizens of the United States are hereby warned that none of the privileges secured by the above recited articles of the Treaty in question will exist after the 1st day of July next; all American fishermen should govern themselves accordingly.

Done at the City of Washington, this 31st day of January, in the year of Our Lord one thousand eight hundred and eighty-five, and of the Independence of the United States of America the one hundred and ninth.

[SEAL.]

CHESTER A. ARTHUR.

By the President:

FREDK T. FRELINGHUYSEN,
Secretary of State.

House Ex. 78, Forty-ninth Congress, second session.

AMERICAN FISHERIES.

REPLY
OF
THE SECRETARY OF THE TREASURY,

TO THE

Resolution of the House of Representatives of December 14, 1886, calling for an interpretation of the tariff law respecting the duties on fish.

JANUARY 10, 1887.—Referred to the Committee on Foreign Affairs and ordered to be printed.

TREASURY DEPARTMENT, January 10, 1887.

SIR: I have had the honor to receive the resolution of the House of the 14th ultimo, making inquiry in regard to the "interpretation now given by the Treasury Department to the tariff law of eighteen hundred and eighty-three, which in one section declares that 'fish, fresh, for immediate consumption,' shall be free of tax on arrival at our seaports or lake ports, and in another section declares that 'foreign-caught fish, imported fresh,' shall be taxed at the rate of fifty cents for each hundred pounds," and also requesting me "to transmit to the House copies of all official correspondence, opinions, and decisions bearing on the subject, together with a statement of the duties collected each year, since eighteen hundred and sixty-five, on the several descriptions of fish caught on the lakes, or the Canadian tributaries thereof, and also on the several descriptions caught in the North Atlantic, or on the shores of the islands thereof."

FROZEN FISH.

A satisfactory reply to these inquiries will make necessary a preliminary statement, and an exhibition of certain details connected therewith.

By the tariff law of 1846, there was levied 20 per cent. ad valorem on the foreign value of:

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The same schedule, and language, were preserved in the tariff law of 1837, but the rate was reduced to 15 per cent.

The tariff law of March 2, 1861, levied in the tenth section the following rates:

"On mackerel, two dollars per barrel; on herrings, pickled or salted, one dollar per barrel; on pickled salmon, three dollars per barrel; on all other fish, pickled, in barrels, one dollar and fifty cents per barrel; on all other *foreign-caught* fish, imported otherwise than in barrels or half-barrels, or whether fresh, smoked or dried, salted or pickled, not otherwise provided for, fifty cents per one hundred pounds."

In its twenty-third section that law declared that "*fish, fresh caught, for daily consumption*," shall be exempt from duty.

Then began a perplexity which has embarrassed this Department up to the present day. Some one at the port of entry must, under the clause, decide whether or not the fish, entered as free thereunder, is "fresh caught," and is "for daily consumption." Did the qualification "for daily consumption" refer to the "fish," or to the catching, and the purpose of the catching? Who can correctly pass judgment on the *motive* of the fishermen, or of the importer?

On June 18, 1866, this Department decided (see Appendix A) that the phrase included *all* fish imported for consumption, *while fresh*, and did not include fish imported fresh, but to be afterwards dried, or pickled, or cured for future use. "Daily consumption," said this Department, twenty years ago, means consumption "within a short time." That view seems correct, but, nevertheless, the law was intrinsically incapable of exact execution, inasmuch as it might be difficult for a customs officer to foresee, or foreknow, the intentions or purposes referred to.

I believe that the fish clause quoted above from the law of March 2, 1861, and which levied a tax on fish, stood till 1870, but the free clause was made in 1870 to read:

"Fish, *fresh, for immediate consumption*."

The substitution of "immediate" for "daily" did not remove the perplexity.

The Tariff Commission did not report on the subject.

The tariff law of 1883 taxes fish at our seaports, our lake ports, and on the frontier, by these words in the schedule for "Provisions:"

"Mackerel, one cent per pound.

"Herrings, pickled or salted, one half of one cent per pound.

"Salmon, pickled, one cent per pound; other fish, pickled, in barrels, one cent per pound.

"Foreign-caught fish, imported otherwise than in barrels or half-barrels, whether *fresh*, smoked, dried, salted, or pickled, not specially enumerated or provided for in this act, fifty cents per hundred pounds."

A subsequent section declared that the following articles, when imported, shall be exempt from duty:

"Fish, *fresh, for immediate consumption*."

"Fish for bait."

"Oil, spermaceti, whale and other fish oils of American fisheries, and all other articles the produce of such fisheries."

"Shrimps or other shell-fish."

"Fish-sounds, or fish-bladders."

The kinds of fish just described, having been "specially enumerated, or provided for" in 1383, were thereby taken out of the clause levying a tax on *foreign-caught fresh fish*.

What has happened in the execution of the free-fish clause during the last quarter of a century, whether the clause required "*daily*" or "*immediate*" consumption, is exhibited in the subjoined Appendix A. It is an unsatisfactory record of an effort to discover and execute an intention of the law-makers which was so ambiguously expressed as to lead to doubt and dispute. In 1877, and after the law of 1870, the difficulties were increased, partly by reason of new contrivances for the artificial freezing of fish.

At first it was doubted by collectors whether or not a fish caught in winter, thrown on the ice and frozen stiff while lying there, and imported in that condition, could be a "fresh fish," as if either a fresh fish cannot be frozen, or a frozen fish cannot be fresh. It was also insisted that a fish caught in summer, and frozen by an artificial method could not be deemed fresh, even though as fresh as one frozen by the natural coldness of winter air in a northern climate. Then it was said that the produce of American fisheries could not be carried into Canada, there artificially frozen, and afterwards be exempt from tax when entered at our ports. It was argued by customs officers that the quantity entered could be made a safe test of "*immediate consumption*," as if customs officers could correctly ascertain and decide on the "*immediate*" buying and consuming powers of the people. There were customs officers who urged the Department to make the distance of the probable place of sale from the place of entry a test of "*immediate consumption*," as if transportation from Portland in Maine to a market at Boston could be a legal test, and "*immediate*" referred to place rather than time. One collector thought twenty tons of fish on one entry, at a port on the lakes, could not be for "*immediate consumption*" by subsequent shipment and sale in the great markets of Chicago, Philadelphia, and New York. It could not be affirmed that the fish thus frozen, whether naturally or artificially, was either "smoked, or dried, or salted, or pickled." If freezing deprived the fish of freshness, it could not well be dutiable as "foreign-caught fish, *fresh!*" What sort of fish was it? Was it old, stale, and decayed fish that buyers and consumers sought, bought, and would eat? The contention has gone on for well-nigh a quarter of a century, nor has Congress intervened to tax frozen fish by other and explicit words!

In June last the interpretation of the law was referred to the Solicitor of this Department. His opinion, subjoined in Appendix A, does not relieve the enactment from difficulties in uniform application at each

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port such as the Constitution commands. If a collector shall, in order to secure such uniformity at every port, await the decision of this Department after an exhibition of the facts surrounding each entry, the fish might become anything but "fresh."

This fish clause of the tariff law affords a pertinent illustration of the need there is of revising our taxing legislation. The draughtsman of a great many of its sections, apparently unable to set down clearly his purpose, and his own idea of the method of executing it, has thrown upon appraising or collecting officers the work of ascertaining the intentions of importers, or the uses to which merchandise can be, or may, thereafter put, which those officers are unable to perform in any reasonable time, or in any satisfactory way. To appraising and collecting work in practical administration there is a limit, which our present law too frequently ignores, and then customs officers are unjustly criticised, or condemned, for not doing such work properly.

I have dwelt upon this incident in our tariff legislation because it makes clear, even to the superficial observer, how man's inventions, and improved methods of rapid communication by steam, not only crowd down prices, and extend the saleable area of one article after another year by year, and month by month, but even modify the necessary interpretation to be given to classifications in our taxing laws. One hundred and three years ago—when the Treaty of Peace was signed which apportioned the British empire in America and its rights of fishing, between the British Government and the thirteen independent American States—railways and steam-engines were practically unknown, and the use of ice as now applied in the fishing industry was also unknown. Even half a century ago the purchase and enjoyment of fresh fish as food were confined to places near the spot where the fish were caught. Thus it has come to pass that ice and railways have changed, even since 1870, the most obvious definition and the strictly literal application of the phrase in our tariff law, "fish, fresh, for immediate consumption." Such causes of change are constantly occurring as to other articles, by reason of modifications in methods of production, new combinations of component materials, new nomenclature, and new commercial classifications, which enforce the need of frequent revisions of our tariff law, when that law, instead of taxing simply a few articles, requires the executive to levy and collect multifarious duties on so many hundreds and even thousands of articles.

The United States Commissioner of Fish and Fisheries says in his report for 1881:

"In the earlier years of the American fisheries, and in the greater abundance of inshore fisheries, with a comparatively slight demand in consequence of the small population of the country, and the difficulties of transporting the fish, it was quite possible to obtain, within easy reach of our coast, fish enough to meet all the requirements. Now, with a population of fifty millions of people, the great decline of the inshore fisheries, and the ability not only to transport fresh fish to any

distance inland without deterioration, but with also the growing demand for salted, dried, and canned fish, it is of the utmost importance that every facility be furnished to the fishermen in the prosecution of their business."

In the report of the Commissioner for 1882 it is said:

"The work of increasing the supply of valuable fishes in the waters of the United States, whether by artificial propagation or by transplantation, although very successful, may be considered as yet in its infancy. It must be remembered that the agencies which have tended to diminish the abundance of the fish have been at work for many years, and are increasing in an enormous ratio. This, taken in connection with the rapid multiplication of the population of the United States, makes the work an extremely difficult one. If the general conditions remained the same as they were fifty years ago, it would be a very simple thing to restore the former equilibrium.

"At that time, it must be remembered, the modes of preservation and of wholesale transfer, by means of ice, were not known, while the means of quick transportation were very limited. Hence, a small number of fish supplied fully the demand, with the exception, of course, of species that were salted down, like the cod, the mackerel, and the herrings, (including the shad.) At that time a comparatively small quantity supplied the demand for fresh fish, and it was easy to more than meet the demand. Now, however, the conditions are entirely changed."

In Appendix A will be found "the official correspondence, opinions and decisions," on the subject of frozen fish, the record of which will disclose to your honorable body the vast amount of labor which even one ambiguous phrase in a tariff law throws upon your Treasury Department and its customs officers. Our existing drag-net war tariff law contains not only one, but hundreds of such phrases, and these at the least of its discreditable, scandalous, and easily remediable imperfections.

THE PRODUCTS OF AMERICAN FISHERIES EXEMPT FROM DUTY.

The clause, already quoted from the law of 1883, which exempts from seaport taxation all fish-oils of American fisheries, and "all other articles the produce of such fisheries," has a large bearing on the inquiry made of me by the House. That exemption stands in the law of 1883, as it stood in the Revised Statutes, excepting the immaterial addition in the former of the word "oils" after "fish." The enactment is in the law of March 2, 1861, which law secured the freedom of such articles from tariff taxes down to the Revised Statutes. The tariff law of 1857, and 1846, contain the clause of 1861. The law of 1841 declared that "whale and other fish oils of American fisheries, and all other articles the produce of said fisheries," shall be exempt from duty. Before 1841 the clause does not appear in the statutes, and yet a manuscript issued in New York by Deputy Collector Lyon in 1828, and another in 1832, put down as free; "Fisheries of the United States and their territories,—all products."

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I also find substantially the same language in two compilations of the tariff laws—one by Meyer Moses in 1830, and one by E. D. Ogden in 1840; and still another compilation, in 1828, by "James Campbell, entry clerk, custom-house, New York," in which he enumerates "fish of the fisheries of the United States or its Territories, free." Mr. Ogden was for many years chief entry clerk at the port of New York, and a compiler of the revenue laws. In his edition for 1840 he cites as authority for the phrase the acts of July 14, 1832, 1840, and 1841. The explanation is probably this: The final clause of the first section of act of August 10, 1790, levies duties on a plan unlike that now used. It taxes at five per cent. ad valorem certain classes of merchandise, and then rescues from taxation certain specified commodities, "and, generally, all articles of the growth, the *product*, or manufactures of the *United States*." The two sentences next to the last in the first section of the law of April 27, 1816, impose duties "on spermaceti oil of *foreign* fishing, (and) on whale and other fish oil of *foreign* fishing." The language in that law, as to the products named, is precisely the same as that used in the present tariff, with the single substitution in the latter "of *American* fisheries" for the words "*of foreign* fishing" in the former. My conclusion is that only the products of *foreign* fishing having been provided for as dutiable, the products of American fisheries were by a clear implication exempted from duty as the products of the United States. That they were the products of the United States is, it seems to me, put beyond question by the fact that bounties were paid to vessels engaged in American fisheries.

In 1836, it was decided by Mr. Justice Story that when whales have been caught, and oil has been therefrom produced, by the crew of an American vessel, the oil is not the product of "foreign fishing" and is not dutiable, even although owned by aliens when entered at our ports. He said that the inquiry whether or not the oil was of "foreign fishing" depended upon the nationality of the vessel when the whales were caught and the oil extracted, and not upon any subsequent events.

In a series of comparatively recent decisions by this Department, copies of the text of which will be found in Appendix B, Fisheries have been defined as "*American*" within the meaning of our revenue laws, although the taking of the fish be on the high seas, or within a foreign jurisdiction. That should in part be so for other reasons than were assigned in those decisions, inasmuch as customs duties are, in general, only imposed on articles when imported from a port, or place, within the exclusive dominion of a foreign State, which could not be said of fish, or their products, arriving from the ocean where the fish were caught.

The phrase "fisheries of the United States" is in the first tariff law enacted by the first Congress which sat under the Constitution, and the test of American fishing has, from that day to this, uniformly been the nationality of the vessel, regardless of the place where the fish were taken. Even the Treaty of Washington, which admitted free of

duty into each country fish of all kinds being the produce of the fisheries of either country, excepting fish of the inland lakes and of the rivers falling into them, left fish caught therein by American vessels entitled to free entry in our ports as formerly. Our Supreme Court declared in 1876 that, subject to the paramount right of navigation (the power to regulate which is in the Federal Government), each State owns the bed of the tide waters within its jurisdiction, and may appropriate them to be used exclusively by its citizens as a common for cultivating and taking fish if navigation be not impeded; but the treaty of 1854 gave, nevertheless, to British subjects, in common with American citizens, the liberty to fish on our coasts north of the 36th parallel of north latitude, and the treaty of 1871 gave the liberty north of the 39th parallel. Those treaties having fallen, and the fishing rights of Massachusetts on her coasts having returned to her, she may permit British vessels to fish on her coasts, but then it could not be said that the fish, if entered at our ports, had been imported from a foreign port. But apart from such an improbable incident to complicate the proposition, it may be safely affirmed that all fishing-grounds, whether on the high seas or on the Canadian coasts, secured to us by treaty stipulations, are "American fisheries," if the fish are caught by vessels regularly documented by the Treasury Department. In that sense and to that end, the ocean and certain Canadian coasts are (under the treaties of 1783 and 1813) our "fishing-grounds."

WHAT VESSELS ARE AMERICAN VESSELS?

In this relation—which concerns the freedom from taxation at our ports of fish products taken in the sea or on Canadian coasts, and also concerns our pending serious differences with the British Government—it is important to realize what constitutes an American vessel that is capable of enlarging the area from which free fish can be entered at our ports. Congress, notably by the enactment of July 5, 1884, has committed to the head of this Department the supervision of the commercial marine and merchant seamen of the United States, and of the decision of all questions relating to the issue of registers, enrollments and licenses of vessels, and to the preservation of those documents. Whether or not a private vessel, claiming to be American, is American and entitled to carry and display that flag, depends solely on the character of the ship's papers that it carries by the permission of Congress given under the attestation of this Department. The only question is this: Has the vessel conformed to the laws, not of a foreign country but of the United States? In the decision of that question her papers must be *prima facie* evidence against all the world. These considerations are elementary, but they are important now as defining what are "American fisheries," whose products are in our ports exempt from customs taxes.

The section of our law which authorizes a vessel, licensed for carrying on fishery, to "touch and trade at any foreign port" is not a mode

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contrivance for modern exigencies, as Canadian local officials intimate, but has been on our statute book since 1793. As literally reproduced in section 4364 of the Revised Statutes, it gives the permission of this Department to any vessel, so licensed for carrying on the fisheries of the United States, to enter British or other foreign ports, as a commercial vessel, and to there enjoy the rights and privileges accorded to vessels of the United States sailing "foreign" under a register, and not engaged in the fisheries. The permission thus given to fishing vessels to "touch and trade" has been understood by this Department for nearly a hundred years as conferring upon the vessel a right to land, and to receive on board a cargo of merchandise, in the same manner as if she were not engaged in the fisheries. On the return of the vessel to the United States, she is required to make regular entry, and to be in all respects subject to the regulations prescribed for vessels arriving from foreign ports.

MEDIEVAL RESTRICTIONS ON FREE NAVIGATION.

The stipulations of the treaty of 1815 only applied in our favor to British territories "*in Europe*." If they were applicable now to British territories *in America*, the present differences in British North America should not exist, for the first article of that convention declares that "the inhabitants of the two countries, respectively, shall have liberty, freely and securely, to come *with their ships* and cargoes to all such places, ports, and rivers, in the territories aforesaid, to which other foreigners are permitted to come, to enter into the same, and to remain and reside in any parts of the said territories, respectively."

The second article stipulates that, as to "the intercourse" between the United States and British possessions in *North America*, "each party shall remain in the complete possession of its rights."

In 1827, when the treaty of 1815 was extended for an indefinite time, the United States struggled in vain with England for a more liberal agreement, or a more liberal interpretation of that of 1815, but could obtain neither.

Such liberty of access by American vessels to British colonial ports on this continent was the subject of fruitless negotiation by each of the first six Presidents. The endeavor was continued during forty years, and was only successful in the hands of General Jackson, as President, Mr. Van Buren as Secretary of State, and Mr. McLane as Minister to London, and then by concerted legislation relating at first only to the British West Indies. It having been arranged that there would be legislation at London opening to us the British colonial ports to the *south* of us on this continent, Congress, on May 29, 1830, authorized President Jackson to proclaim our ports open "indefinitely, or for a fixed term," to British vessels from the islands, provinces, or colonies of Great Britain, on or near the North American continent," and *north*, south, or east of the United States.

Soon thereafter, and on October 5, 1830, President Jackson did issue the proclamation, and on June 26, 1834, Congress again reduced tonnage

dues on Canadian vessels of all sorts entering our ports. By such concerted and reciprocal legislation, the mediæval barriers around colonial possessions in America by which the mother country had so long endeavored for her own benefit to hamper and restrict the trade of the colonies, and to levy differential duties in favor of colonial produce, have been broken down. The Privy Council, and the Governor-General of the Dominion of Canada, while conceding that Canadian ports are now open to American trading vessels, attempt to apply that mediæval and discarded restrictive system to American fishermen on the high seas.

In 1845, after many years of effort by the United States, England again relaxed the rigor of the restrictions of her ancient laws of transportation, as applied to her colonies, and the two countries entered upon a new period of prosperity flowing from the unhindered carriage of merchandise in bond by land and water. That legislation covering the British North American provinces began, on our part, on March 3, 1845. In 1846 came the comprehensive system of warehousing, the general features of which are now in force, devised and perfected, during the administration of President Polk, by my distinguished predecessor, Mr. Robert J. Walker. In 1849, 1850, 1854, and subsequently, that system of warehousing, and transportation in bond by railway and steamboat, has been amended and improved so that to-day we of the United States and they of the Dominion of Canada are reaping the advantages of an international organization by which merchandise, whether dutiable or free, and if dutiable without payment of duties in transit, can if entered at one of our ports proceed immediately over our territory to Canada, or, if landed at a Canadian port, can come freely to its destination in the United States, or can pass from one of our own ports to another over Canadian soil, and, in like manner, from one Canadian port to another over American soil. It is to be regretted that the British North American provinces impede and impair the full fruition of this beneficent system of international intercourse and transportation by unworthy and petty spite in their ports against American deep-sea fishermen.

From 1812 to 1832, the aggregate annual traffic between the United States and the British North American provinces averaged only \$3,257,153; from 1832 to 1845 it rose to \$6,313,780, but, under liberal transportation arrangements, it rose from 1846 to 1853 to no less an annual average than \$14,230,763, leaving in our favor, during that period of eight years, a balance of trade of over 40½ millions of dollars.

It was in 1845 that England, changing her colonial policy, empowered the Canadian provinces to make a tariff on imports to suit themselves. During the next year those provinces removed the barriers against American products which existed, in the form of differential rates in favor of British products, and admitted commodities from our side of the line on the same terms as commodities were admitted coming from British ports. In 1849, England, having by her Minister at Washington previously communicated with the Treasury Department

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presented a further proposition for a further reciprocal relaxation of commercial restrictions which impeded trade across the boundary line. The administration of President Fillmore endeavored to promote the subject for which my predecessor in this Department, Mr. Robert J. Walker, strove, in 1846, in his correspondence with the British Minister.

This good result of only a partial experiment of reciprocal comity naturally led to negotiations for a more comprehensive international arrangement, and such a one was concluded in 1854 by negotiations conducted at Washington, on our side during the administration of President Pierce by a wise and illustrious statesman and citizen of New York, Mr. Marcy, who was then Secretary of State. That reciprocity treaty was in force till 1866, a period covering our civil war. Under its influence, the aggregate interchange of commodities between ourselves and the inhabitants of all the British provinces—numbering not as many as those of the State of New York—rose from an annual average of a little over 14 millions of dollars, in the previous eight years to over 33½ millions in gold in 1855, to nearly 50 millions in 1856, and to 84 millions in the last year of its existence. During the thirteen years the British provinces, according to their official returns, purchased from us articles valued at over 359½ millions of dollars in gold, and we bought from them 197 millions, thus making an international traffic of nearly 556½ millions of dollars on a gold valuation. I can but think that if that treaty of 1854 had remained in force till this day, the two peoples—divided by a boundary-line which can only with difficulty be discerned from the Arctic ocean to the Pacific, from the Pacific to Lake Superior, and from Lake Ontario to the Atlantic—would now be one people, at least for all purposes of production, trade, and business.

During the past summer, while American vessels, regularly documented, have been excluded from the hospitality and privileges of trading in Canadian ports, Canadian fishing-vessels have been permitted freely to enter and use American ports along the New England coast, have been protected by this Department in such entry and use, and have not been required to pay any other fees, charges, taxes, or dues than have been imposed upon the vessels of other governments similarly situated. The hospitality elsewhere, and generally extended in British ports to American commercial vessels has not been less, in quality or quantity, as I am informed, than the hospitality extended to British vessels in American ports; but there is this marked difference, that, while this Department protects Canadian fishermen in the use of American ports, the Dominion of Canada brutally excludes American fishermen from Canadian ports. This dependence upon port hospitality, as between this Government and the British Government, in respect to vessels of either, is emphasized by the nineteenth section of the law of June 19, 1836, empowering the President to suspend commercial privileges to the vessels of any country

denying the same to United States vessels. That section is in harmony with a section in the British navigation law which authorizes the Queen, whenever British vessels are subject in any foreign country to prohibitions or restrictions, to impose by order in council such prohibitions or restrictions upon the ships of such foreign country, either as to voyages in which they may engage, or as to the articles which they may import into or export from any British possession in any part of the world, so as to place the ships of such country on as nearly as possible the same footing in British ports as that on which British ships are placed in ports of such country.

REVENUE LAWS AND REGULATIONS.

The head of this Department, having the responsibility of enforcing the collection of duties upon such a vast number of imported articles, under circumstances of so long a sea-coast and frontier line to be guarded against the devices of smugglers, should not be inclined to underestimate the solicitude of the local officers of the Dominion of Canada to protect its own revenue from similar invasion. The laws for the collection of duties on imports in force in the United States and in the Dominion of Canada, respectively, will be found, on comparison, to be on many points similar in their objects and methods. They should naturally be similar, for both had, in the beginning, the same common origin. In the United States, Congress has divided the territory of each State by metes and bounds, usually by towns, cities, or counties, into collection districts, for the purpose of collecting duties on imports, and in each collection district has established a port of entry and ports of delivery. In that manner all our sea-coast frontier is subdivided for revenue purposes. The object of our law is to place every vessel arriving from a foreign port in the custody of a customs officer immediately upon her arrival, in order that no merchandise may be unladen therefrom without the knowledge of the Government. The Canadian law is much the same as our own in that regard, and in comparison with our own does not seem to me to be unnecessarily severe in its general provisions. Our own law provides, for example, (sec. 2774, Rev. Stat.,) that—

“Within twenty-four hours after the arrival of any vessel, from any foreign port, at any port of the United States established by law, at which an officer of the customs resides, or within any harbor, inlet, or creek thereof, if the hours of the business of the office of the chief officer of customs will permit, or as soon thereafter as such hours will permit, the master shall report to such officer, and make report to the chief officer, of the arrival of the vessel; and he shall within forty-eight hours after such arrival make a further report in writing to the collector of the district, which report shall be in the form, and shall contain all the particulars required to be inserted in and verified like the manifest. Every master who shall neglect or omit to make either of such reports or declaration, or to verify any such declarations as required, or shall not fully comply with the true intent and meaning of this section, shall for each offence be liable to a penalty of one thousand dollars.”

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Condemnation does not, in the opinion of this Department, justly rest upon the Dominion of Canada because she has upon her statute-books and enforces a law similar to the foregoing, but because she refuses to permit American deep-sea fishing vessels, navigating and using the ocean, to enter her ports for the ordinary purposes of trade and commerce, even though they have never attempted to fish within the territorial limits of Canada, and intend obedience to every requirement of the customs laws, and of every other law of the port which such vessels seek to enter. American fishing-vessels duly authenticated by this Department, and having a permit "to touch and trade," should be permitted to visit Canadian ports, and buy supplies, and enjoy ordinary commercial privileges, unless such a right is withheld in our ports from Canadian vessels. That right is denied by the Privy Council and the Governor-General of the Canadian Dominion, upon the ground that it would be in effect a *pro tanto* abrogation of the treaty of 1818. That contention is an error, in the opinion of this Department, because the treaty of 1818 has no application to the subject-matter. If the right claimed by this Department for American vessels authenticated by this Department were conceded by Canada, it would only apply to a few ports established by law for the entry of foreign vessels, and would merely enable United States fishing-vessels to pursue their regular business after entry into or departure from such ports, under the same rules and regulations as are applied to the commercial vessels of other nations. We ask that American fishing-vessels shall enjoy hospitality in such Canadian ports as are set apart for the entry of foreign vessels, for the unloading and shipment of merchandise, and generally for foreign commerce.

This Department has had occasion in the past, and may be compelled in the future, to seize and prosecute for forfeiture foreign as well as domestic vessels violating, in our own ports, the customs law, but I believe there never has been in the past, and I hope there never will be in the future, such passionate spite displayed by the officers of this Government as has during the last summer been exhibited in the Dominion of Canada toward well-meaning American fishermen. Congress has forbidden the Head of this Department to prosecute even for evasion of tariff law unless satisfied of "an actual intention to defraud."

TONNAGE OF VESSELS ENGAGED IN AMERICAN FISHERIES, AND THE NATIONALITIES OF THE FISHERMEN.

During the periods of the inquiry made of me by the House, the tonnage of American fishing-vessels of over twenty tons burden, other than whalers, will be seen in Appendix D:

That tonnage reached its maximum (203,459) in 1862, and during the subsequent seven years diminished by more than 70 per cent. The lowest number of tons was touched in the middle of the period between the expiration of the reciprocity treaty of 1854 and the conclusion of the treaty of Washington of 1871. The falling off is perhaps to be attributed in great part to the repeal in 1866 of the laws

allowing bounties to the vessels engaged in the fisheries. By the law of 1813 there was paid to the collector of the district where such vessels belonged, to the owner thereof if the vessel had been employed at sea in fishing for the term of four months, and for each ton burden, a specified sum, not to exceed \$272 on any one vessel for one season, of which bounty three-eighths accrued to the owner and the other five-eighths to the several fishermen. In 1817 it was enacted that the bounty shall be paid only to vessels whereof the officers and at least three-fourths of the crew shall be citizens of the United States, or persons not the subject of any foreign prince or state. In 1819, soon after the conclusion of the treaty of 1818, the bounties were increased, but not to exceed \$360 for each vessel. In 1864 it was enacted that the bounty shall not thereafter be paid to any vessel until satisfactory proof shall have been furnished to the collector of customs that the import duty imposed by law upon foreign salt has been paid on all foreign salt used in curing the fish on which the claim to the allowance to the bounty is based, and the law was repealed on June 28, 1864 (U. S. Stats. at Large, vol. 13, p. 201), which required two-thirds of those on board to be American citizens. On July 28, 1866, all laws and parts of laws allowing fishing-bounties to vessels thereafter licensed to engage in the fisheries was also repealed, but under the condition that duties shall be remitted on all foreign salt used by such vessels in curing fish. It seems quite probable that anticipation of the enactment repealing bounties induced, in great part, the great falling off in tonnage between 1862 and 1869.

The best estimate that can be made by this Department of the relation of aliens to citizens engaged in American fisheries, in the North Atlantic, other than whalers, is that during the last year (1886), of the 14,240 employed, seventy-eight per cent. were American citizens.

PRESENT CONDITION OF AMERICAN FISHERIES, AND THE SUM OF DUTIES COLLECTED ON FOREIGN FISH.

On May 28, 1886, and in furtherance of a suggestion made by our Fish Commissioner, this Department issued a circular letter of instruction to collectors, a copy of which will be found in Appendix E. The replies received have been transmitted to that Commission, and therefrom valuable facts respecting our fisheries have been obtained, some of which the Commissioner has kindly grouped and placed at my disposition. They are respectfully submitted to the House in Appendix E. In Appendix C will be found such an exhibition of the duties collected on fish as the records of this Department, for reasons set forth in the Appendix, make available for immediate presentation to the House.

Respectfully, yours,

DANIEL MANNING,
Secretary of the Treasury.

The Honorable

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Hon. HUGH Mc
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APPENDIX A.

FROZEN FISH.

CUSTOM-HOUSE, BOSTON,
Collector's Office, June 16, 1866.

Hon. HUGH McCULLOCH,
Secretary Treasury:

SIR: The act of March 2, 1861, relating to duties on imports, provides in section 10 for a duty on "fresh fish foreign caught not otherwise provided for." Among the articles enumerated in section 23 same act, as exempt from duty is, "Fish, fresh caught, for daily consumption."

Fresh salmon and halibut in small quantities are daily brought into this port in British vessels from the Provinces undoubtedly for "daily consumption," but without any formal evidence of that fact, such importations have been admitted free of duty.

The appraisers hold that all fresh fish, so imported in British vessels, is subject to duty by virtue of said section 10.

The question is constantly occurring, and there being a difference of opinion amongst ourselves here as to the construction of the act, we should feel much relieved if you would give a decision upon the question.

Very respectfully, your obedient servant,

J. M. FISKE,
Special Deputy Collector.

—
TREASURY DEPARTMENT,
Washington, D. C., June 18, 1866.

COLLECTOR OF CUSTOMS,
Boston, Mass.:

SIR: Your communication of the 16th instant is received, relative to the duty to be imposed on "fresh fish, foreign caught, imported from Canada in British vessels."

In reply thereto, I would respectfully state that it is the opinion of this Department that by that provision of the tariff which admits to free entry "fish, fresh caught, for daily consumption" (section 23, act of March 2, 1861), is understood to embrace all fish imported for consumption, while fresh, in contradistinction to such as might be imported fresh, to be dried, pickled, or otherwise cured for future use.

By the phrase "daily consumption" it is not understood that the fish must be used on the day they are imported, but if there is reason to believe that the fish are to be used within a short time, then they would be entitled to free entry, notwithstanding the fact that there may be no formal evidence that they are intended for daily consumption.

By order:

I am, very respectfully,

J. F. HARTLEY,
Assistant Secretary.

—
TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 23, 1869.

THOMAS RUSSELL, Esq., Collector of Customs, Boston, Mass.:

SIR: In reply to your letter of the 19th instant, the following dispatch has been this day sent you by telegraph:

"Release the schooner Scud. Further by letter."

In the letter referred to, transmitting a communication from Lorenzo Wilson, charterer of the fishing schooner Scud, you state that the schooner arrived at your port on the 14th instant with 800 barrels of American-caught herring, salted, and that the facts of the case are as follows:

That after taking a fishing license of Eastport, with liberty to load and trade, the schooner sailed to St. John, New Brunswick, where her master purchased salt for the

voyage (550 sacks), with twenty-five "fishing anchors," used for herring nets, and manufactured in New Brunswick.

She then cleared from St. John, bound on a fishing voyage. On arrival at Boston, the master sold the herring and landed them without a permit.

The master, however, reported at the custom-house, where he was informed by the clerk, that he was not required to enter his vessel, she being under a fishing license.

You state that you are perfectly satisfied that the parties interested acted in good faith, and that they believed they had a right to land their cargo without entry or permit, or payment of duties, and you recommend that the schooner be allowed to clear at once without any proceedings against her.

In consideration of the alleged causes of her detention and of your recommendation the order for the release of the schooner is hereby confirmed, and you will take no steps against any of the parties to enforce legal penalties for landing the cargo without permit.

You say further that the claimant has, by your direction, made entry of his fish, and made special deposit of the amount of duties, viz, \$826, on the ground that by purchasing salt in a foreign port and mixing it with the fish he rendered his whole cargo dutiable.

The Department has hitherto decided that if foreign salt is used without the limits of the United States, in curing fish of American catch, the fish are not thereby rendered dutiable, nor is the salt so consumed liable to duty.

If salt purchased abroad for the curing of fish is not consumed in the curing, but is brought into an American port, the salt would then be liable to duty, but the fish on board cured with such foreign salt before importation are free of duty.

You will accordingly refund the sum deposited with you by the claimant in payment of duty supposed to have accrued on the fish imported in the Scud.

Very respectfully,

H. McCULLOCH,
Secretary.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., June 4, 1875.

COLLECTOR OF CUSTOMS,
Marquette, Mich. :

SIR: I am in receipt of your letter of the 25th ultimo, inquiring whether fish which are caught in Canadian waters, and after being brought into the United States are salted and packed in barrels or packed in ice, are subject to duty, and if so, at what rates.

In reply, I would state that it being assumed that the fish you refer to are caught from the inland lakes separating the Dominion of Canada from the United States, or from the Canadian tributaries thereof, the same are not exempt from duty by virtue of the treaty of Washington of July 4, 1871, and section 2506, Revised Statutes, in pursuance thereof, inasmuch as fish, the products of the inland lakes and tributaries, are not admitted free of duty under said treaty and law.

The general provisions of the tariff, however, allowing free entry of fresh fish for immediate consumption, would, under the ruling of the Department giving construction to the law, apply to fresh fish imported into the United States to be consumed within a short time thereafter, as fresh fish. It will be observed, however, that as the question whether the fish are for immediate consumption can be absolutely verified only in the light of facts occurring after they have been admitted to free entry and have passed from the custody of the Government, great care and circumspection will be required on the part of officers of the customs to see that there is no abuse of the privilege conferred by the law in question. If you have any valid reason to believe that fish are being admitted to free entry which are not entitled to such privilege, you will deny free entry thereof, report the facts to the Department, and await further instructions.

As regards the fish salted and packed in barrels, I have to state that if, as the Department infers from your communication, the fish are so salted and packed after importation, they would, unless coming under some one of the special provisions for different kinds of fish, including that above referred to for fresh fish, be charged with duty at the rate of 50 cents per 100 pounds.

I am, very respectfully

CHAS. F. CONANT,
Acting Secretary.

SIR: I have the honor to acknowledge the receipt of your letter of the 1st inst., enclosing a communication from the Hon. L. M. Moore, Secretary of the Treasury, in relation to the following inquiry:

(1) Can an American vessel, under a fishing license, import fish from Canada into the United States?

(2) Does an American vessel, under a fishing license, import fish from Canada into the United States?

In reply to the above inquiries, I have the honor to state that no other than the northern shore of the United States is entitled to free entry of fish from Canada.

Under the provisions of the Canadian Statutes therein, would be subject to the provisions of the Statutes of the Department, of the 22d of Jan.

"If foreign salt is used in curing American catch, the fish are not thereby rendered dutiable to duty."

"If salt purchased abroad for the curing of fish is not consumed in the curing, but is brought into an American port, the salt would then be liable to duty, but the fish on board cured with such foreign salt before importation are free of duty."

To the second inquiry, I have the honor to state that the trade does not benefit from the coasting trade during the lakes during the United States.

I have the honor to be, Sir, very respectfully,

Hon. T. W. Fiske,
President.

Hon. T. W. Fiske,
President.

J. M. S.]

SIR: I have the honor to acknowledge the receipt of your letter of the 1st inst., enclosing a communication from the Hon. L. M. Moore, Secretary of the Treasury, in relation to the following inquiry:

(1) Can an American vessel, under a fishing license, import fish from Canada into the United States?

(2) Does an American vessel, under a fishing license, import fish from Canada into the United States?

The preparation of the report of the Hon. L. M. Moore, Secretary of the Treasury, of April 6, 1875, in relation to the above inquiries, is now in progress.

Under the provisions of the Canadian Statutes therein, would be subject to the provisions of the Statutes of the Department, of the 22d of Jan.

"If foreign salt is used in curing American catch, the fish are not thereby rendered dutiable to duty."

"If salt purchased abroad for the curing of fish is not consumed in the curing, but is brought into an American port, the salt would then be liable to duty, but the fish on board cured with such foreign salt before importation are free of duty."

To the second inquiry, I have the honor to state that the trade does not benefit from the coasting trade during the lakes during the United States.

I have the honor to be, Sir, very respectfully,

Hon. L. M. Moore,
Secretary of the Treasury.

TREASURY DEPARTMENT, June 21, 1876.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th ultimo, inclosing a communication from John O'Malley, of La Pointe, Wis., making the following inquiries in regard to American vessels fishing upon Lake Superior, viz:

(1) Can an American vessel engage in fishing upon the northern shores of Lake Superior in Canadian waters, with American twine and American labor, salt the fish upon the vessel and bring them into the United States free of duty?

(2) Does an American vessel engaged in fishing or the coasting trade, on clearing for a Canadian port, become liable to tonnage tax?

In reply to the first question, I have to state that neither the treaty of Washington nor any other treaty with Great Britain authorizes American fishermen to fish upon the northern shores of Lake Superior, or provides that fish there caught shall be entitled to free entry into the United States. Such fish, however caught, by permission of the Canadian government, express or implied, on American vessels, and salted therein, would be duty free on entry under the provision in section 2505 of the Revised Statutes for "the produce of the American fisheries," and the decision of this Department, contained in a letter to the collector of customs at Boston, under date of the 22d of January, 1869, to the following effect:

"If foreign salt is used without the limits of the United States in curing fish of American catch, the fish is not thereby rendered dutiable, nor is the salt so used liable to duty."

"If salt purchased abroad for the curing of fish is not consumed in the curing, but is brought into an American port, the salt would then be liable to duty, but the fish of American catch, cured with such foreign salt before importation, are free of duty."

To the second question I answer, that a vessel engaged in fishing or the coasting trade does not become liable to tonnage tax on clearing for a foreign port.

But a coasting vessel so clearing directly, or a vessel entering a Canadian port on the lakes during a fishing voyage, would be required to pay the tax on her return to the United States, provided it had not been paid within a year.

I have the honor to be, sir, your obedient servant,

CHAS. F. CONANT.

Acting Secretary.

Hon. T. W. FERRY,

President of the Senate.

J. M. S.]

CUSTOM-HOUSE, DETROIT, MICH.,

Collector's Office, December 29, 1876.

SIR: I have the honor to represent that the question has been raised at this office as to whether fresh fish frozen into a particular shape for the preservation of the fish and convenience in their transportation to all parts of the United States are dutiable upon their importation into the United States or entitled to free entry under the provisions of section 2505, Revised Statutes, for "fish, fresh, for immediate consumption." The preparation of the fish is made under a patent process owned by Messrs. S. H. Davis & Co., of this city, which patent was issued from the Patent Office of the United States April 6, 1875, and numbered 161596, and also under patents issued by the Governments of Canada and Newfoundland. The fish are frozen at any time of the year into round cakes the thickness of one fish, with backs up, so as to exactly fit into a barrel, seven of said cakes exactly filling one barrel. In this condition the fish are preserved from decay and in a fresh state for any length of time required, in rooms of a low temperature, and shipped to any point desired in refrigerator cars and vans, the patent on which is also owned by Messrs. Davis & Co. Fish so prepared are, although fresh, in no sense intended for immediate consumption, but on the contrary are intended to be retained in a fresh condition for shipment and future consumption. I was yesterday shown a cake of fish prepared by the process above mentioned over one year ago, and they had the appearance of being as fresh as if newly caught.

A large quantity of fish are being prepared by the process mentioned at Amherstburg, Ontario, and it is the intention of the owners to import a portion of the fish so prepared into the United States at this port for sale in the markets of the United States.

In view of the foregoing facts I have to request that I be instructed at as early a day as possible as to what course to pursue upon the importation of fish prepared in the manner above referred to, whether I shall admit them to free entry as "fish, fresh, for immediate consumption," or demand a duty of 50 cents per 100 pounds.

I am, very respectfully, your obedient servant,

D. V. BELL, *Collector.*

Hon. L. M. MOREHILL,

Secretary of the Treasury, Washington, D. C.

Fish frozen for transportation.

TREASURY DEPARTMENT. January 3, 1877.

SIR: The Department is in receipt of your letter of the 29th ultimo, in which you ask for a decision as to whether fresh fish, frozen in barrels, imported from Canada, are exempt from duty.

It is understood that the fish referred to are caught in the inland lakes, and consequently that they are not exempt from duty under the Treaty of Washington and section 2506 of the Revised Statutes.

From your statement it appears that the fish are frozen in barrels under a process which has been patented in the United States and Canada, and that by such process they are preserved fresh, and in a condition fit for use for an almost indefinite period of time, when they are kept in a low temperature. It is also understood that such fish are not imported for daily consumption at or near your port, but are intended to be transported in refrigerator cars (also patented for the purpose of carrying these fish) to different parts of the country for sale and future consumption.

Under these circumstances, the Department is of opinion that the fish, when imported in the condition specified, are not exempt from duty under the provision for "fish, fresh, for daily consumption," which, by Department's decision of June 18, 1866, was intended to apply only to fish in the natural condition, intended for use at or about the time of importation, but are dutiable at the rate of 50 cents per 100 pounds, under the provision in Schedule F for "all other foreign-caught fish," * * * fresh, * * * not otherwise provided for.

Respectfully,

L. M. MORRILL,
*Secretary.*COLLECTOR OF CUSTOMS,
Detroit, Mich.

DETROIT, January 11, 1877.

Hon. L. M. MORRILL,
Secretary of the Treasury, Washington, D. C. :

SIR: I have the honor to state that I have this day filed protest with the collector here against the payment of \$18.94 coin assessed by him upon 3,788 pounds fresh fish imported by me this day. They are caught in the Thames River near Chatham, and sent here for immediate shipment to New York for consumption. It seems to me very unjust that duty should be charged upon these fresh fish for immediate shipment to New York, Philadelphia, or Cincinnati, while (as the collector informs me) they are admitted free for Detroit market. These fish are thrown into barrels and left out to freeze before they are shipped. I am also occasionally shipping some which are frozen by patent process in barrels and shipped to same points that these are, and claim they should all be free, same as heretofore. It being, as before stated, very unjust to discriminate between this and other markets.

In view of the foregoing facts, I trust you will authorize a refund of the amount exacted and also instruct the collector to admit future shipments upon free entry.

Very respectfully,

T. R. MERRILL.

DETROIT, January 11, 1877.

Hon. L. M. MORRILL,
Secretary of the Treasury, Washington, D. C. :

SIR: I have the honor to state that I have this day filed protest with the collector of customs here against the payment of \$47.58 coin assessed by him upon 9,517 pounds fresh fish imported by me this day, claiming they should be free as they are imported for shipment at once to Philadelphia for immediate consumption. Another reason for claiming free entry on the particular shipment is that they were caught in American waters and taken to Windsor and placed in refrigerators, where they are withdrawn as required for shipment to New York, Philadelphia, and other points, as well as this market. It seems to me a very unjust discrimination against citizens of New York, Philadelphia, Cincinnati, &c., that they must pay duty upon same fish that citizens of Detroit would be allowed free of duty, as the collector here allows free entry upon all fresh fish which are to be placed upon the market here for consumption.

We are bringing in both foreign and American fish daily, some fresh caught and some from the refrigerators. They are all frozen. Those that come from the refrigerators will not keep as long as those fresh caught, and must of necessity be consumed

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R. W. DANIEL
Collector

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as soon as possible on arrival at destination. No salt or other matter comes in contact with those frozen in the refrigerators, and I claim all should be admitted upon free entry. I therefore trust you will authorize a refund of the amount exacted and allow free entry of future shipments.

Very respectfully,

J. B. JESSOP.

CUSTOM-HOUSE, BUFFALO, N. Y.,
Collector's Office, January 15, 1877.

SIR: Messrs. Jones & Trevallee, of this city, desire me to submit for your decision the following inquiry: During the season of 1876 certain fish were caught by fishermen in their employ at Whitefish Point and Marquette, Mich., in the American waters of Lake Superior, brought in vessels to this port, and by them exported to Port Ryerse, Ontario, fresh, for the purpose of having them frozen by a similar process to that mentioned in letter of Department to collector of customs at Detroit, under date of January 3, 1877 (H. B. J.).

They now desire to return them to this port, and ask if they can be brought in free of duty, under section 1687 of the tariff, which provides for the free entry of the products of American fisheries. They have undergone no change of condition except the process of freezing named.

An early reply is respectfully requested.

Respectfully,

R. W. DANIELS,
Collector,
Per C. C. CANDEE,
Deputy.

HON. SECRETARY OF THE TREASURY,
Washington, D. C.

Hayden.]

TREASURY DEPARTMENT,
January 22, 1877.

R. W. DANIELS, Esq.,
Collector of Customs, Buffalo, N. Y.:

SIR: The Department is in receipt of your letter of the 15th instant, inquiring whether fish, caught in the waters of Lake Superior within the jurisdiction of the United States, and consequently of domestic production, can be carried to Canada and be there subjected to a patent process of freezing for the purpose of preservation, with the privilege of free entry on being returned to the United States.

The process referred to, you state, is similar to that mentioned in Department's letter to the collector of customs at Detroit, dated the 3d instant. In that case the Department held that the fish, being the product of the Canadian fisheries, was not entitled to free entry either under the treaty of Washington or the provision of the free list for "fish, fresh, for immediate consumption," which, under the rulings of the Department, applies only to fish in the condition when caught, and intended for use at or about the time of importation.

This process being thus recognized as effecting a change in the condition of the fish, they cannot, on being returned to the United States under the circumstances detailed by you, be admitted to free entry as American production returned to this country "in the same condition as exported."

By order.

H. F. FRENCH,
Assistant Secretary.

J. M. S.]

CUSTOM-HOUSE, DETROIT, MICH.,
Collector's Office, January 17, 1877.

SIR: I submit the protests and appeals of Mr. T. R. Merrill and Mr. J. B. Jessop, respectively (Nos. 3024e and 3025e), from the decision of this office, assessing duty at the rate of 50 cents per 100 pounds on certain 3,788 pounds fresh fish imported by said Merrill on the 11th instant, and on 9,517 pounds fresh fish imported on the same day by said Jessop.

Referring to Department's decision No. 2285, dated June 4, 1875, and to your letter of (H. B. J.) January 3, 1877, addressed to me, I have to say that said rate of duty was assessed by me upon the importations referred to for the reason that the fish were not imported in their natural condition, and were not intended for immediate

consumption at or near this port, but were intended for shipment to New York and Philadelphia. A large portion of the fish included in the said importation by Mr. J. B. Jessop had been originally frozen in particular shapes by the patent process referred to in my letter of (J. M. S.) December 29, 1876, and the casks of fish so prepared, afterward, and just previous to importation, broken up with a view to evading the payment of duty under the decision in Department's said letter of January 3, 1877, but not so broken and separated as to render them unfit for shipment and preservation for a reasonable length of time. The remainder of the fish in Mr. Jessop's importation and all of Mr. Merrill's importation had been taken from the pens in which they were kept, packed in barrels, and then exposed to the cold and solidly frozen for convenience of shipment.

My understanding of Department's decision in said letter to me, dated January 3, 1877, was and is that the provision of law authorizing the free entry of "fish, fresh for immediate consumption," is intended to apply only to fresh-caught fish in their natural condition, and in such quantities as is reasonable to suppose are for immediate and daily consumption at or near the port where imported, and that all fish imported in such condition and quantity as to warrant the belief that they are intended for shipment to other points must pay duty at the rate of 50 cents per 100 pounds, whether they are frozen under a patent process or in any other manner that will preserve them for and during shipment.

I have the honor to report that the requirements of the fourteenth and fifteenth sections of the act approved June 30, 1864, have been complied with by the appellants.

Very respectfully, your obedient servant,

D. V. BELL.
Collector.

Hon. L. M. MORRILL,
Secretary of the Treasury.

DETROIT, January 11, 1877.

Hon. D. V. BELL,
Collector of Customs, Detroit:

DEAR SIR: I hereby protest against the assessment of one-half cent per pound on 3,788 pounds fresh fish imported by me this day, claiming they should be free, being for immediate consumption on arrival at New York.

They are caught in the Thames River, near Chatham, and sent here for immediate shipment to New York for consumption. I therefore claim the amount exacted (\$18.94 gold) should be refunded.

Very respectfully,

T. R. MERRILL.

DETROIT, January 11, 1877.

Hon. D. V. BELL,
Collector of Customs, Detroit:

DEAR SIR: I hereby protest against the payment of \$47.58 gold assessed by you upon 9,517 pounds fresh fish imported by me this day from Windsor, claiming they should be free, being for immediate consumption on arrival at Philadelphia, where they are to be shipped at once.

I claim also they should be free for another reason, viz, that they are fish caught in American waters in Detroit River, and are placed in refrigerators in Windsor and withdrawn as we require them for shipment. In view of the foregoing facts I claim the amount exacted should be refunded.

Very respectfully,

J. B. JESSOP.

London.]

JANUARY 23, 1877.

COLLECTOR, Detroit:

SIR: The Department is in receipt of your letter of the 17th instant, transmitting the appeals (3024e and 3025e) of T. R. Merrill and J. B. Jessop from your decision assessing duty at the rate of 50 cents per 100 pounds on certain frozen fish imported into your port from Canada, which the importers claim to be exempt from duty under the provision in the "free list," for "fish, fresh, for daily consumption."

It appears that the said fish, which are the product of the inland waters of Canada, are not imported in the natural state nor intended for daily consumption, but are preserved by being frozen in barrels by a patent process or otherwise, for the purpose of transportation to distant cities.

Under these facts preserved fish at the rate of 50 cents per 100 pounds caught fish instructions to Your decision By order: Respect

SIR: Your request whether fish caught in the United States, and exported to the United States is admitted in letter to collector not be returned to country in "free entry under the decision of American A decision upon Respect

Hon. SECRET

[Swank.]

COLLECTOR OF SIR: The Department question whether of the United States, can be You state that is made, conceding entry as being but claim that the list for the production of January free entry of fish containing such claim In reply you a waters of the United States produce being taken to Collector from that in By order:

SIR: I submit decision of this office fresh fish imported

S. E. X.

Under these circumstances the fish not being "fresh, for daily consumption," but in fact preserved, the Department concurs with you in the opinion that they are dutiable at the rate aforesaid under the provision in schedule F, for "all other foreign caught fish * * * fresh * * * not otherwise provided for," and Department's instructions to you of the 3d instant.

Your decision is therefore affirmed.

By order:

Respectfully,

H. F. FRENCH,
Assistant Secretary.

CUSTOM-HOUSE, BUFFALO, N. Y.,
Collector's Office, January 25, 1877.

SIR: Your reply of the 23d instant (H. B. J.) to my inquiry of the 15th instant, whether fish caught in the waters of Lake Superior, within the jurisdiction of the United States, and exported to Canada for the purpose of being frozen can be returned to the United States free of duty, is received.

It is admitted by Messrs. Jones & Trevallee that under decision of the Department, in letter to collector of customs at Detroit, under date of the 3d instant, such fish cannot be returned under 1482 of the free list as American productions returned to this country in "same condition as when exported," but claim they should be admitted to free entry under the provisions of section 2505 of the Revised Statutes for the produce of American fisheries, and Treasury decisions (S. S.) 342 and 2872.

A decision upon this point is respectfully requested.

Respectfully,

R. W. DANIELS,
Collector.
FER C. C. CANDEE,
Deputy.

HON. SECRETARY OF THE TREASURY,
Washington, D. C.

(1079c.)

TREASURY DEPARTMENT,
Washington, D. C., February 5, 1877.

COLLECTOR OF CUSTOMS, Buffalo, N. Y.:

SIR: The Department is in receipt of your letter of the 25th ultimo, renewing the question whether fish caught in the waters of Lake Superior within the jurisdiction of the United States, exported to Canada, and there frozen for the purpose of preservation, can be returned to the United States free of duty.

You state that Messrs. Jones & Trevallee, the parties at whose instance the inquiry is made, concede that the fish, under such circumstances, are not entitled to free entry as being returned to the United States in the same condition as when exported, but claim that they should be admitted to free entry under the provision of the free list for the produce of American fisheries, reference being made to Department's decision of January 22, 1869, and June 21, 1876 (S. S., 342 and 2872), authorizing the free entry of fish caught and cured without the limits of the United States, as sustaining such claim.

In reply you are informed that the fish in the case supposed, being caught in the waters of the United States, the decisions referred to do not apply; and being of domestic production there is no provision of law authorizing their free entry on their being taken to Canada, and thereafter returned to this country in a condition different from that in which they were at the time of being taken to Canada.

By order:

H. F. FRENCH,
Assistant Secretary.

CUSTOM-HOUSE, DETROIT,
Collector's Office, February 9, 1877.

SIR: I submit the protest and appeal of Mr. C. W. Gauthier (No. —) from the decision of this office, assessing duty at the rate of 50 cents per 100 pounds on certain fresh fish imported by him into this district February 7, 1877.

S. Ex. 113—33

Referring to the appeal, I have the honor to report that the requirements of the fourteenth and fifteenth sections of the act approved June 30, 1864, have been complied with by the appellant, and that I assessed duty on same, not regarding them as "for immediate consumption," but for shipment in the United States for future consumption.

The appeal is inclosed herewith; also protest.

Very respectfully, your obedient servant,

Hon. L. M. MORRILL,
Secretary of the Treasury, Washington, D. C.

D. V. BELL,
Collector.

DETROIT, February 7, 1877.

Hon. D. V. BELL,
Collector of Customs, Detroit:

DEAR SIR: I hereby protest against the payment of \$41.97, gold, assessed by you upon 8,395 pounds fresh whitefish imported by me this day for shipment to Philadelphia for immediate consumption. I claim they are entitled to free entry, as they are not frozen, either by patent process or otherwise (see Department letter, T. B. S., January 23, 1877), but are just taken fresh from the water. I pay the amount in order to get possession of the fish, and claim it should be refunded.

Very respectfully,

C. W. GAUTHIER.

DETROIT, February 7, 1877.

Hon. L. M. MORRILL,
Secretary of the Treasury, Washington, D. C.:

DEAR SIR: I have the honor to state that I have this day filed protest with the collector of customs at this port against the payment of \$41.97, gold, assessed by him upon 8,395 pounds fresh whitefish imported by me, claiming they should be free, as they are fresh, just taken from the water and not frozen, either by patent process or otherwise. They are for immediate shipment to Philadelphia in the same condition in which they are in at present, and intended for immediate consumption on arrival at Philadelphia. In view of the foregoing facts I trust you will authorize a refund of the amount exacted.

Very respectfully,

C. W. GAUTHIER.

DETROIT, February 9, 1877.

D. V. BELL, Esq.,
Collector, Detroit:

DEAR SIR: I hereby protest against the payment of \$129.39 gold assessed by you upon 25,677 pounds fresh fish imported by me this day, claiming they are entitled to free entry as fresh fish for consumption. They are all sold and delivered to parties in Detroit under contract made last fall. I therefore claim the amount should be refunded.

Very respectfully,

C. W. GAUTHIER.

Bell.]
COLLECTOR OF CUSTOMS,
Detroit, Mich.:

FEBRUARY 17, 1877.

SIR: The Department is in receipt of your letter of the 9th instant, submitting the appeal (3236c) of Mr. C. W. Gauthier from your assessment of duty on certain fresh fish imported by him into your district on the 7th instant.

It appears from the appeal that the fish in question are fresh and not frozen, either by patent process or otherwise, and that they are intended for shipment to Philadelphia in their present condition and for consumption on arrival there while fresh.

The fish in question are therefore entitled to free entry under Department's decision of June 18, 1866 (see Synopsis, 1865, 1867, page 55), and you are authorized to adjust the entry accordingly, and to forward a certified statement for the refund of the duties exacted thereon.

By order:

Respectfully

H. F. FRENCH,
Assistant Secretary.

D. V. BELL,
Collector of Customs.

DEAR SIR: I hereby

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February 15, 1877,

February 16, 1877,

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Very respectfully

The SECRETARY OF

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JOHN SHERMAN,

Secretary of the

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DETROIT, February 21, 1877.

D. V. BELL,
Collector of Customs, Detroit:

DEAR SIR: I hereby protest against the payment of duty assessed by you upon fresh fish imported by me as follows:

February 15, 1877, 16,107 pounds, at one-half cent coin.....	\$80 45
February 16, 1877, 2,210 pounds, at one-half cent coin.....	11 05
Total	91 60

claiming they should be free as fresh fish for consumption, and that the amount exacted should be refunded.

Very respectfully,

C. W. GAUTHIER.

WINDSOR, ONTARIO, February 26, 1877.

The SECRETARY OF THE TREASURY,
Washington, D. C.:

SIR: I hereby wish to call your attention to the collection of duties on fresh fish, which I call illegal, and demanded of me at the ports of entry in Detroit, Mich., and at Suspension Bridge, N. Y.

I imported at the places set opposite the following entries fresh fish upon which was exacted a duty of one-half cent per pound in gold, which I paid or caused to be paid under protest, to wit:

Where paid.	Date.	Paid per pound.	Amount.
	1877.	Cent.	Pounds.
Detroit.....	Jan. 12	1	9,439
Do.....	Jan. 28	1	16,450
Do.....	Feb. 1	1	2,110
Do.....	Feb. 7	1	8,343
Do.....	Feb. 8	1	25,677
Do.....	Feb. 15	1	14,780
Do.....	Feb. 15	1	1,327
Do.....	Feb. 16	1	2,210
Suspension Bridge.....	Feb. 12	1	11,700
Do.....	Feb. 17	1	21,660
Do.....	Feb. 20	1	45,564

"be within fish were all fresh fish, and were intended for daily consumption and were dried to be sold and disposed of with least possible delay, as they would spoil in a short time. The entry of the 12th January, with exception of 1,717 pounds of the 7th February and 4,476 pounds of the entry of February 20 at Suspension Bridge, were fish fresh from the river Detroit. I know that other parties are importing fresh fish free of duty at Detroit. I hereby pray that the duty so unjustly collected may be returned to me, and, if required, can send additional affidavits to substantiate what I now say, that all of these fish were fresh fish and liable to spoil and become of no value in a short time.

I remain, yours truly,

C. W. GAUTHIER.

I, John L. Neur, United States consular agent at Windsor, Ontario, do hereby certify that I know Mr. C. W. Gauthier to be a truthful and reliable person and the person whose name appears as above subscribed, and the statements above set forth as far as my knowledge and belief I believe them to be true.

Dated Windsor, Ontario, February 26, 1877.

JOHN L. NEUR,
Consular Agent, United States.UNITED STATES ATTORNEY'S OFFICE,
EASTERN DISTRICT OF MICHIGAN,
Detroit, June 13, 1877.Hon. JOHN SHERMAN,
Secretary of the Treasury:

SIR: I have the honor to inclose herewith compared copy of the decision of Judge Brown, of the United States circuit court, in the case of Gauthier v. D. V. Bell,

collector of the port, in relation to the importation of frozen fish. The case was fully argued, and, as you will see, the decision heretofore arrived at by the Department was sustained by the court.

Very respectfully,

S. M. CUTCHEON,
United States Attorney.

"BROWN, J.:

"Although the fish in question are frozen in barrels or in large pans in a solid mass or cake, I think they are still to be considered as fresh fish. This term is obviously used in contradistinction to fish which are cured, salted, smoked, dried, pickled, or otherwise rendered capable of preservation for an indefinite length of time. The testimony shows clearly that frozen fish retain their flavor so long as the temperature is preserved below the freezing point, and that they are sold in the market and known to the trade as fresh fish.

"The only difficulty in this case arises from the use of the words 'for immediate consumption.' While I am strongly inclined to the opinion that fish imported in their natural state, whether to be sold upon the market at the place of importation, or to be shipped to distant towns, would still be for immediate consumption, I think the fact of their being frozen in cakes prior to their importation evinces a manifest intention that they shall not be immediately consumed. While they were sometimes broken up and placed at once upon the market at Detroit, they were more frequently shipped to Cincinnati and Philadelphia, in common cars, and there put upon the market and sold. It was shown that fish so frozen could be kept for months, and even years, with no material loss of flavor or perceptible decay, and that, in the winter, it was no uncommon thing for them to be kept for two or three months, the length of time, of course, depending upon the state of the weather. Under these circumstances, I think they cannot be classified as fresh fish for immediate consumption.

"A portion of these fish were originally caught in American waters, carried to Canada for the purpose of being frozen, and a bond given for their re-exportation to the United States. It was claimed that even under Schedule F, section 2504, these were exempt. As this schedule applies only to 'foreign-caught' fish, I think the fish in question fall within the provision of section 2505, page 486, viz: 'Articles of growth, produce, and manufacture of the United States, when returned in the same condition as when exported, but proof of identity of such articles shall be made under regulations prescribed by the Secretary of the Treasury.' These regulations are contained in the printed copy of the general regulations, articles 373-4-5-6 and 377, and it was admitted these regulations had not been complied with. This was an indispensable prerequisite to their admission free of duty.

"It was not the intention of Congress, by the use of the words 'foreign-caught,' to place domestic fish in a category distinct from that of other articles of home production, or to dispense with the proof of identity required in all other cases, and so necessary to prevent frauds.

"There must be a judgment for defendant."

TREASURY DEPARTMENT, March 6, 1877.

SIR: I transmit herewith the appeal of C. W. Gauttier, dated the 26th ultimo (No. 3420e), from your decision assessing duty at the rate of one-half cent per pound on certain fresh fish imported by him into your port between January 22 and February 16, 1877.

You will please return the inclosed paper, with your report thereon, at an early day stating particularly whether the party or parties have duly complied with the requirements of section 2931 of the act approved June 20, 1874.

I am, very respectfully,

D. V. BELL, Esq.,
Collector of Customs at Detroit, Mich.

TREASURY DEPARTMENT, March 6, 1877.

SIR: I transmit herewith a copy of an appeal of C. W. Gauttier dated the 26th ultimo (No. 3420e) from your decision assessing duty at the rate of one-half cent per pound on certain fresh fish imported by him into your port February 12, 17, and 20, 1877.

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T. E. ELLSWORTH,
Collector of

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Hon. Lot M. Me
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You will please return the inclosed paper with your report thereon at an early day, stating particularly whether the party or parties have duly complied with the requirements of section 2931 of the act approved June 22, 1874.

I am, very respectfully,

S. I. KIMBALL,
Acting Chief Clerk.

T. E. ELLSWORTH, Esq.,
Collector of Customs at Suspension Bridge, N. Y.

CUSTOM-HOUSE, SUSPENSION BRIDGE, N. Y.,
Collector's Office, March 8, 1877.

Sir: Referring to your letter of the 6th instant, initials "H. B. J.," transmitting copy of the appeal of C. W. Gauthier from my decision assessing duty on certain fresh fish, I have to report that the fish in question were packed in barrels and frozen by some artificial process, being such as those mentioned and described in Department's letter of January 3, 1877 (No. 3062), and accordingly were held to be dutiable at the rate of fifty cents per 100 pounds.

The importations made February 12 and 17 were entered for consumption and duties paid. The importation made February 20 was entered for transportation in bond to New York.

Very respectfully,

T. E. ELLSWORTH,
Collector.

Hon. Lot M. MORRILL,
Secretary of the Treasury.

CUSTOM-HOUSE, DETROIT, MICH.,
Collector's Office, March 8, 1877.

Sir: I have the honor to acknowledge receipt of your letter of H. B. J., March 6, 1877, inclosing appeal (No. 3420e) from my decisions assessing duty at the rate of 60 cents per 100 pounds on certain fresh fish imported by C. W. Gauthier into this port between January 12 and February 16, 1877, directing me to report thereon.

In relation to the eight different importations included in said appeal, I have to say that the first mentioned ("January 12, 1877, paid $\frac{1}{2}$ cent per pound on 9,439") does not appear on the records of this office, but on January 11, 1877, there was imported by J. B. Jessop, a partner of the appellant in the present case, 9,517 pounds of fresh fish frozen under a patent process, upon which duty was assessed, and protest and appeal filed. The appeal was transmitted from this office under date of January 17, 1877, to which you replied in letter of T. B. S., January 23, 1877, sustaining my action. The two succeeding importations ("January 28, 1877, paid $\frac{1}{2}$ cent per pound on 10,469 pounds; February 1, 1877, paid $\frac{1}{2}$ cent per pound on 2,110 pounds") do not appear on our records, but are evidently intended to represent two importations of fresh fish made on the dates mentioned by J. B. Jessop, of 19,550 pounds and 2,457 pounds, respectively, upon which duties were assessed, and against which action no protests have ever been filed in this office. The fourth importation mentioned in said appeal ("February 7, 1877, paid $\frac{1}{2}$ cent per pound on 8,343 pounds") was made as represented, protest and appeal filed in accordance with law, and a refund of the duties exacted ordered in your letter of H. B. J., February 17, 1877.

The four succeeding importations referred to in said appeal were made as alleged, viz: 25,677 pounds on February 8, 14,780 and 1,327 pounds on February 15, and 2,210 pounds on February 16, against the exaction of duty, on which protests were filed in this office in accordance with law, on February 9 and February 21, 1877, and are herewith submitted.

With the exception of the first three importations mentioned in said appeal, none of the fish were frozen under a patent process, but were all more or less frozen in the packages in which they were imported, and were shipped to New York and Philadelphia in that condition, where they may have been put on the market for immediate consumption, or they may have been sugar-cured or pickled for future consumption. The large quantities of fish shipped from Canada during the winter to New York and other points East, via this port, Suspension Bridge, and Buffalo, is a probable indication that the fish are intended for preservation and future use, and not for immediate consumption.

The statement by Mr. Gauthier, in his appeal, that the fish mentioned therein were fresh fish from the Detroit River, is calculated to mislead. No fish are taken from the Detroit River in the winter, from the fact that said river is entirely frozen over

during the winter. Mr. Gauthier and other fishermen along the Detroit River catch their fish during the summer and fall, confining them in pens along the river bank until such time as they may be wanted, when they are taken therefrom and disposed of. I exacted duty on these fish imported by Mr. Gauthier, and upon importations of a similar nature by other parties, for the reason that I held that the provision of law (sec. 2505, Rev. Stat.) exempting from duty "fish, fresh, for immediate consumption," and the various decisions of the Department thereunder, applied only to importations of fish, fresh-caught, in their natural condition, and in such quantities as would be reasonable to suppose were for immediate consumption, and acting upon such construction of the law and said decisions, I have exacted duty upon all importations of fresh fish frozen under patent processes, and all such as were otherwise frozen and imported in such quantities as to raise the presumption that they were not intended for immediate consumption at or near this port. The only fresh fish I have admitted to free entry within the past two months have been such as were imported in quantities that could be consumed while fresh in this market, and upon the entry of which the importer should subscribe an oath to the effect that the fish were fresh in their natural condition, and were intended for immediate consumption at or near this port and not for shipment.

The said appeal by Mr. Gauthier, together with two protests covering the four importations mentioned in said appeal as having been made on the 8th, 15th, and 16th of February, is herewith inclosed.

I am, very respectfully, your obedient servant,

D. V. BELL,
Collector.

The SECRETARY OF THE TREASURY,
Washington, D. C.

Adams.]

COLLECTOR OF CUSTOMS,
Suspension Bridge, N. Y.:

SIR: Referring to your letter of the 8th instant reporting on the appeal (3420) of C. W. Gauthier from your assessment of duty on certain fish imported by him in your port on the 12th, 17th, and 20th ultimo, you will please inform the Department whether the requirements of section 2931 Revised Statutes have been complied with by the appellant.

Department's letter of the 6th instant particularly requested you to furnish this information.

Respectfully,

H. F. FRENCH,
Assistant Secretary.

CUSTOM-HOUSE, SUSPENSION BRIDGE, N. Y.,
Collector's Office, March 20, 1877.

SIR: Referring to your letter of the 17th instant, initials "H. B. J.," relative to the appeal (3420e) of C. W. Gauthier from the assessment of duty on certain fresh fish at this port, I have to report that the importations made February 12 and 17 were consigned to H. J. Gunn, who entered the same and paid duties thereon amounting to \$166.60 coin, February 19, 1877. The requirements of section 2931, Revised Statutes have been complied with, as the protest transmitted herewith was filed in this office February 27, 1877.

The importation made February 20 was consigned to and entered by James M. Feygon for transportation in bond to New York and no protest was filed.

Very respectfully,

T. E. ELLSWORTH,
Collector.

HON. JOHN SHERMAN,
Secretary of the Treasury.

Adams.]

MR. C. W. GAUTHIER,
(Care of John H. Jenks,)
Windsor, Ontario, Dominion of Canada:

SIR: The Department has this day affirmed the decisions of the collectors of customs at Detroit, Mich., and Suspension Bridge, N. Y., assessing duty at the rate of one-half cent per pound on certain fish imported by you at Detroit February 8, 15, and 16, 1877.

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COLLECTOR OF

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J. M. S.]

APRIL 2, 1877.

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and at Suspension Bridge February 12, 17, and 20, 1877, and declined to entertain so much of your appeal of the 26th ultimo (3420e) as relates to your entries of January 23 and February 1, 1877, at Detroit, and of February 20, 1877, at Suspension Bridge, in consequence of your failure to file protests therefor.

Respectfully,

H. F. FRENCH,
Assistant Secretary.

APRIL 2, 1877.

Adams.]

COLLECTOR OF CUSTOMS,
Detroit, Mich.:

SIR: The Department is in receipt of your letter of the 8th instant, reporting upon the appeal (3420e) of C. W. Gauthier from your assessment of duty at the rate of one-half cent per pound on certain fish imported by him into your port January 23, February 1, 8, 15, and 16 last, and claimed to be entitled to free entry under the provision in the free list, Revised Statutes for "fish, fresh, for immediate consumption."

It appears from your report that it has been the practice at your port to admit to free entry, under the provision of law above cited, such fresh fish only as were imported in quantities that could be consumed while fresh at or near your port, and that the immense quantities of fish imported from Canada at your port, Suspension Bridge, and Buffalo for shipment to New York and Philadelphia is an indication that they are intended for preservation and future use and not for immediate consumption.

The appeal of Mr. Gauthier covers the importation of 162,269 pounds of fish during the months of January and February last, and, upon consideration, the Department is of opinion that such large importations would probably not be consumed immediately.

Your assessment of duty on the importations of February 8, 15, and 16, 1877, is hereby affirmed.

In consequence of the failure of the importer to file protests in due time on their entries of January 23 and February 1, 1877, the Department declines to entertain so much of his appeal as relates thereto.

By order:

Respectfully,

H. F. FRENCH,
Assistant Secretary.

APRIL 2, 1877.

Adams.]

COLLECTOR OF CUSTOMS,
Suspension Bridge, N. Y.:

SIR: The Department is in receipt of your letter of the 20th instant, reporting further on the appeal of C. W. Gauthier from your assessment of duty at the rate of one-half cent per pound on certain fish imported by him into your port on the 12th, 17th, and 20th ultimo, and claimed to be entitled to free entry under the provision in the free list, Revised Statutes, for "fish, fresh, for immediate consumption."

It appears from your report of the 8th instant that the fish in question were packed in barrels and frozen by some artificial process, and that duty was assessed thereon in accordance with Department's decision of January 3, 1877 (S. S. 3062).

Your assessment of duty on the importations of the 12th and 17th ultimo is therefore affirmed.

It appears from your report of the 20th instant that no protest was lodged for the entry of the 20th ultimo, and the Department therefore declines to entertain so much of the appeal as relates to that entry.

By order:

Respectfully,

H. F. FRENCH,
Assistant Secretary.

J. M. S.]

CUSTOM-HOUSE, DETROIT, MICH.,
Collector's Office, June 15, 1877.

SIR: Referring to the appeal (3420e) of C. W. Gauthier from my assessment of duty at the rate of 50 cents per 100 pounds on certain fish imported by him into this port January 23, February 1, 8, 15, and 16 last, and claimed to be exempt from duty under the provision in the free-list, Revised Statutes, for "fish, fresh, for immediate consumption," and to Department's decision thereon, sustaining my action (S. S. 3181), I have the honor to report that after said decision was made known to him (Gauthier), he commenced suit in the United States circuit court against me for recovery of the duties so paid by him. Under stipulations between counsel a jury trial was dis-

passed with, and the case presented to the court (Judge H. Brown) in chambers. The decision of the court ordering judgment for defendant is herewith inclosed. It will be noticed that Judge Brown, in said decision, inclines to the opinion that fresh fish imported in their natural condition (not frozen by patent process or otherwise) would be entitled to free entry, without regard to quantity imported, or whether they are intended for consumption at or near the port of importation, or intended for shipment to distant parts of the country.

I have to request that I be instructed as to whether or not the Department concurs with such opinion, and if I shall admit to free entry *all* fresh fish imported in their natural condition.

I am, very respectfully, your obedient servant,

D. V. BELL, *Collector.*

Hon. JNO. SHERMAN,
Secretary of the Treasury, Washington, D. C.

CUSTOM-HOUSE, BUFFALO, N. Y.,
Collector's Office, June 20, 1877.

SIR: Unofficial information has been received at this office that the United States district court at Detroit, Mich., has decided that imported fresh fish packed in ice are not entitled to entry as fish intended for immediate consumption.

I respectfully ask to be informed if the decision above referred to applies to all fresh fish packed in ice imported from Canada.

Dealers in this city import fresh fish for use in this market within a short time, while fresh, which are caught in the waters of Lake Huron contiguous to the Dominion of Canada, and which are packed in ice for preservation while in transit from Goderich and other places in Canada to this port, this being the port of importation.

It has been the practice at this port to admit such fish free of duty as being "fresh fish for daily consumption" at or near the place of importation.

I am, very respectfully, your obedient servant,

JNO. TYLER,
Collector.

Hon. SECRETARY OF THE TREASURY,
Washington, D. C.

[Enclosure No. 34.]

(1079 c.)

Mr. Swank.]

JUNE 27, 1877.

COLLECTOR CUSTOMS, Buffalo, N. Y.:

SIR: This Department is in receipt of your letter dated the 20th instant, stating that dealers in Buffalo import fish, for use in the market of that city, caught in the waters of Lake Huron, contiguous to the Dominion of Canada, and packed in ice for preservation while in transit from Goderich and other places in Canada to such market.

In reply to your inquiry whether these fish are subject to duty under the decision recently rendered by the United States circuit court at Detroit, Mich., you are informed that said decision related in express terms to fish only which have been frozen in barrels or in large pans in a solid mass or cakes prior to importation.

In this case it was shown to the satisfaction of the court that fish so frozen could be kept for a long period of time without material deterioration.

The mere fact that fish are packed in ice on importation ought not to exclude them from the operation of the provision in the free list for "fish, fresh, for immediate consumption." Satisfactory evidence is presented that they are intended for immediate consumption.

Very respectfully,

H. F. FRENCH,
Assistant Secretary.

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Fish, Fresh, for Immediate Consumption.

TREASURY DEPARTMENT, May 23, 1883.

The attention of the Department has been recently brought to the fact that fresh fish are sometimes admitted free of duties, on the northern frontiers, in excessive quantities.

Under the existing regulations, importations of fish which will not probably be consumed immediately must be treated as dutiable; thus, in the case of the importation by a person of 162,969 pounds at Detroit, the action of the collector in assessing duties was affirmed.

The Department is informed that at Sandusky, Ohio, fresh fish caught in Canadian waters, varying in quantity from a few hundred pounds to several tons, are received and sold to dealers for shipment, or for consumption, and that such as remain on their hands are either frozen or salted for future use.

It has heretofore been the custom at the port last mentioned to allow such importations free of duties, and it is surmised that a similar practice has prevailed at other ports.

As the law authorizes the admission free of "fish, fresh, for immediate consumption" only, duties should be paid on any considerable surplus which may be preserved as aforesaid.

On the entry of such fish in any considerable quantity, if the collector of customs is in doubt whether the quantity is excessive, and therefore dutiable under the regulations established, he will require the importer to file an affidavit in the following form:

"I, ———, solemnly ——— that the fresh fish imported by me, and mentioned in the annexed entry, are for immediate consumption, and that no portion thereof is intended for preservation by salting, freezing, or otherwise.

[To be signed.] "———

"Sworn to before me this ——— day of ———, 188—.

"———

"Deputy Collector of Customs."

If in any case the quantity is so large as to repel the conclusion that the fish is for immediate consumption, duties will be levied; and when it shall appear to the collector that a portion only of any importation should be admitted free, he will exact duties upon the residue.

The attention of importers of such merchandise will be invited by the customs officers to the fact that any fraudulent action on their part, whereby such fish shall be illegally imported free of duties, will subject them to the penalties denounced by the statutes governing such cases.

H. F. FRENCH,
Acting Secretary.

COLLECTORS OF CUSTOMS AND OTHERS.

CHICAGO, December 26, 1885.

Hon. DANIEL MANNING,

Secretary of the United States Treasury, Washington D. C.:

Will you kindly inform what the duties (if any) on fresh fish from Canada? We are called on to pay at Port Huron \$90 on a car load of frozen smelts, from New Brunswick; former years it was only an entry fee. Manitoba for past two years has flooded the western country with their fresh-water frozen fish *duty free* to injury of dealers and home fishermen, and propose doing the same this winter. We have never heard or read that there is any tax imposed by our Government on Canadian fish imported for "immediate consumption," but in fact they do not go into quick consumption, but are held in "freezers" for speculation, to injury of fish caught in United States waters. Many of these imported last winter were salted at Detroit and other points; some here. We understood last winter Canada intended to impose a one-half cent pound export duty to prevent her waters from being exhausted. American fishermen cannot fish in Canadian waters; the rights are all lot to Canadians, but they sell immense quantities of fish in this country to the great damage of American fishermen at different points on the lakes. At the Sault Saint Marie, Michigan, large quantities of fish were shipped from there caught by Canadians, at the Lizarda Islands, that were imported here, Detroit, and as far as Buffalo. The shippers swear they are for "immediate consumption," when in fact their condition is such much of it has to be salted in this country to save it from being a total loss. Will you kindly give us proper information if any duties have been imposed, and conditions if free fish?

Yours, truly,

LAFLIN & CO.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., December 29, 1885.

Messrs. LAFLIN & Co.,
40 State Street, Chicago, Ill.:

GENTLEMEN: In reply to your letter of the 26th instant, you are informed that while fresh fish imported for immediate consumption are entitled to free entry, yet that it would seem that such provision does not extend to a car load of frozen smelts, which it is understood are imported in a frozen condition for the purpose of preservation. Fish thus imported and not intended for immediate consumption are dutiable at the rate of 50 cents per 100 pounds, under the provisions of schedule "G" T. I., new 280, for "foreign-caught fish, * * * whether fresh," &c.

In case, however, you desire to have the question definitely decided by the Department, you can submit it by protest and appeal under section 2931 Revised Statutes, when it will be duly considered.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

CHICAGO, December 31, 1885.

DEAR SIR: We protest against your collection of Grand Trunk Railroad on or about the 26th this month, of a duty of \$90.70, and express 50 cents on a car load of natural frozen smelts shipped by W. S. Loggie, Chatham, N. B., and consigned to us, the same being intended for immediate consumption. We have forwarded a duplicate to the Treasury Department at Washington.

Yours respectfully,

LAFLIN & CO.

UNITED STATES COLLECTOR OF CUSTOMS,
Port Huron, Mich.

CHICAGO, December 31, 1885.

Hon. DANIEL MANNING,
Sec'y of the Treasury, Washington, D. C.:

DEAR SIR: In accordance with letter dated December 29, 1885, from the Treasury Department, numbered 2296 e, we protested to the collector of customs at Port Huron, Mich., against charging duties on smelts consigned to us, and inclose a copy of protest to your Department for consideration. While we do not claim that the fish will be or are immediately sold for consumption on arrival at their destination, they are as much so as any natural frozen fish that comes in from Canada in the east, or Manitoba in the west, in large quantities, and if the fish from Manitoba are free fish the smelts should be, as each are frozen by weather and not in pans by ice and salt. Frozen fish imported from those places it is impossible to go into immediate consumption. They are preserved fish really by freezing, and are bought so, that different handlers can hold them in "freezers" until they can be sold at a profit, or during a supposed scarcity of fresh-caught fish, and they pass through several middle-men's hands before reaching the consumers. We would be glad to see a heavy duty on all Canadian fish, but if other importers get their duties remitted by protesting in time we wish to be one of them.

Yours, respectfully,

LAFLIN & CO.

CUSTOM-HOUSE, PORT HURON, MICH.,
Collector's Office, January 9, 1886.

Hon. D. MANNING,
Secretary of the Treasury, Washington, D. C.:

SIR: I am in receipt of your letter of the 4th instant (J. G. M.), transmitting the appeal of Laflin & Co. from my assessment of duty on certain natural frozen smelts imported from Chatham, New Brunswick.

In this case the requirements of section 2931, Revised Statutes, have been complied with, and I have the honor to report the appeal is apparently based on the fact that the fish are "natural frozen."

I hold that the particular method of freezing for preservation can have no bearing upon the question whether fish can be imported free of duty. These importations are never in less than car-load lots of from 20,000 to 30,000 pounds; being in such quantities, therefore, as to preclude the idea of "use at or about the time of importation"—(S. 3062); which I hold properly construes the term "immediate consumption" as used pending upon classification as judge, in S. frozen make tion and fut But it seer toms are ins imported aft inclosure I am,

tion" as used in section 2506, Revised Statutes, they can be kept for months, depending upon the state of the weather, and under such circumstances cannot be classified as fresh fish for immediate consumption.* (United States Circuit Court judge, in S. 3280.) I fail to perceive the fact that in this case the fish were *artificially* frozen makes any difference. In both that and Laffin's case the object was preservation and future use. (S. 3181.)

But it seems unnecessary to pursue the subject. By section 6970 collectors of customs are instructed that fish of all kinds, the produce of the Dominion of Canada, imported after July 1, 1885, are liable to duty.

Inclosure returned.

I am, very respectfully, your obedient servant,

W. L. BANCROFT,
Collector.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 20, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

Sir: The Department is in receipt of your letter of the 9th instant, reporting on the appeal, 9340m, of Messrs. Laffin & Co. from your assessment of duty on certain frozen smelts, imported by them from Chatham, N. B., on the 26th ultimo. You report that importations of this character never embrace less than from 20,000 to 30,000 pounds of fish, and that the quantity imported, and the fact that they can be kept for months in this condition, precludes the idea that they are intended for immediate consumption and entitled to free entry under the provision in the free list, act of March 3, 1883 (I. L. new, 699), for "fish, fresh, for immediate consumption."

Your assessment of duty being in accordance with the Department's decisions of January 3, 1877 (S. 3062), and June 27, 1877 (S. 3280), is hereby affirmed.

The fact that the fish in question are frozen naturally and not by artificial methods, does not affect the question as to their being intended for immediate consumption.

Respectfully yours,

C. S. FAIRCHILD,
Assistant Secretary.

LAFLIN & CO., NO. 40 STATE STREET,
Chicago, January 22, 1886.

C. S. FAIRCHILD, Esq.,
Assistant Secretary Treasury:

DEAR SIR: Yours, 340 m, received with copy to collector at Port Huron on our appeal. We have another car in to-day the owner of which wishes us to protest against paying duty, but we think it useless. There are small lots of 1 ton and upwards that come in and are claimed to be for *immediate consumption*, but are not, as they are sold to smaller dealers, or held till retailed by importers, and cannot claim to be used up for food on their arrival. We ship oysters to Manitoba; the parties there claim they pay a Canadian duty of 10c. per gallon; the quantity taken at a time is for *more immediate consumption than any lots of Canadian fish imported into this country.*

Will the same ruling apply to the fresh fish caught in the lakes of Manitoba, naturally frozen there and shipped into this country via rail at Saint Vincent, Minn., or the other line of the Saint Paul, Minnesota and Manitoba Railroad? The Manitoba people seem to be posted, as they want offers for their fish in Winnipeg against their delivering here last winter. Some parties from there claim they pay no duty on deliveries in the East via Canada Pacific Railroad and Toronto; large quantities are claimed to be imported into Buffalo, to the damage of our lake fish.

During the summer heavy fishing is done in Canadian waters at the Lizzard Islands, north of Sault Ste. Marie, and on Huron and Georgian Bay, and imported in too large quantities to go into *immediate consumption*, but is held in this country as merchandise from three to ten days awaiting buyers that sell again to dealers before it reaches the consumer—many of them having to be *salted* here instead of on Canadian ground, to escape the duty on salt fish, and some of the stock is artificially frozen and held for winter use or sale. This class of fresh fish is packed in ice, when it comes in cars holding from 1,000 to 2,400 pounds, and sometimes as high as twenty large cars at one shipment. When they escape duties they are bad competitors from our own fisheries; as they get a class of labor cheaper and get their twine cheaper, they can undersell American-caught fish. During the winter contracts are usually made with the heavier fishermen on both sides for their season's catch, and the price paid the fisherman depends partially on whether those fish pay a duty or come in free.

The Manitoba fish mostly come in during winters in car-lots of 20,000 to 30,000 pounds, but they are gradually working in to shipping in summer packed in ice in fish cars like those via Sault Ste. Marie. If you can give us any information regarding duties now about the Manitoba frozen or the summer caught fish, it will help and benefit us and fishermen in our waters. We are in no way interested in fishing, and buy all we handle. We heartily wish the duty was 1 to 2 cents per pound.

Those Canadians flood us at times, making dealers and home fishermen alike lose money, while they do not benefit the consumer only for a few days at a time.

Yours, truly,

LAFLIN & CO.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 30, 1886.

COLLECTOR OF CUSTOMS,
Saint Vincent, Minn.:

SIR: The Department is in receipt of a letter, dated the 26th ultimo, from Messrs. Laflin & Co., No. 40 State street, Chicago, Ill., from which it would appear that large quantities of fresh fish caught in the lakes of Manitoba, and naturally frozen, are imported at your port free of duty as fresh fish for immediate consumption, whereas they are not in fact for immediate consumption, but are intended for sale to smaller dealers, or to be held for retail to consumers, by the importers. In connection therewith, I inclose for your information and guidance a copy of a letter addressed by the Department to the Collector at Port Huron, Mich., on the 20th instant, from which you will perceive that the fact that fish are frozen naturally, and not by artificial means, does not affect the question as to their being intended for immediate consumption.

Your attention is also especially directed to the last two paragraphs of Department's decision of May 23, 1883 (S. 5729), for your further guidance in such matters.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

J. G. M.] TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 30, 1886.
COLLECTOR OF CUSTOMS,
Buffalo, N. Y.:

SIR: The Department is in receipt of a letter, dated the 26th ultimo, from Messrs. Laflin and Co., No. 40 State street, Chicago, Ill., from which it would appear that large quantities of fresh fish caught in the lakes of Manitoba, and naturally frozen, are imported at your port free of duty as fresh fish for immediate consumption, whereas they are not in fact for immediate consumption, but are intended for sale to smaller dealers, or to be held for retail to consumers by the importers. In connection therewith I inclose, for your information and guidance, a copy of a letter addressed by the Department to the collector at Port Huron, Mich., on the 20th instant, from which you will perceive that the fact that fish are frozen naturally, and not by artificial means, does not affect the question as to their being intended for immediate consumption. Your attention is also especially directed to the last two paragraphs of Department's decision of May 23, 1883 (S. 5729), for your further guidance in such matters.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

J. G. M.—C 14, 11205. }
D 133-249. }

COLLECTOR OF CUSTOMS,
Saint Vincent, Minn.:

SIR: The Department is in receipt of a letter, dated the 26th ultimo, from Messrs. Laflin & Co., No. 40 State street, Chicago, Ill., from which it would appear that large quantities of fresh fish caught in the lakes of Manitoba, and naturally frozen, are imported at your port free of duty as fresh fish for immediate consumption, whereas they are not in fact for immediate consumption but are intended for sale to smaller dealers, or to be held for retail to consumers, by the importers.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., January 30, 1886.

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C. S. FAIRCHILD
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In connection therewith, I inclose for your information and guidance a copy of a letter addressed by the Department to the collector at Port Huron, Mich., on the 20th instant, from which you will perceive that the fact that fish are frozen naturally, and not by artificial means, does not affect the question as to their being intended for immediate consumption.

Your attention is also especially directed to the last two paragraphs of Department's decision of May 23, 1883 (S. 5729), for your further guidance in such matters.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

J. G. M.—B 11-4652. }
D 136-144. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., January 30, 1886.

Messrs. LAFLIN & Co.,
No. 40 State street, Chicago, Ill.:

GENTLEMEN: In reply to your letter of the 22d instant, you are informed that the Department cannot pass upon the classification of "Manitoba frozen" and "summer-caught" fish in advance of their importation, and in the absence of protest and appeal from the decision of the collector of customs.

The question whether fish are fresh and for immediate consumption must be decided in each case by the collector in accordance with the rulings of the Department, and the facts as they can be ascertained.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

LAFLIN & CO., CHICAGO, February 4, 1886.

C. S. FAIRCHILD,
Assistant Secretary of the Treasury, Washington, D. C.:

DEAR SIR: We inclose protest sent United States collector at Port Huron, to save Leggie the shipper, should other parties succeed in getting their duties refunded. We are in receipt of yours affirming the decision of collector at Port Huron; also yours of January 30, stating, in answer to our inquiries, that it was for the collectors at the Manitoba boundary and Sault Sainte Marie to decide if fish (fresh or frozen) in large lots were subject to duty. We do not know how to get at it unless we import fish, and if a duty is imposed appeal to the Department; but as the sellers want to sell at home, we cannot agree on a price unless we figure a duty same as on a lot of smelts. This the sellers are not willing to do. They claim they are shipping fresh fish in 20,000 lots into this country free of duty. We do not know where the customs are collected on importations from Manitoba into this country, or would write to collector; but it seems to us if the Port Huron collector is right, then all other custom-houses would be instructed to collect same duties on same class of goods. One importer claims he could bring his fish from Port Huron in bond to here. In such case, should the Chicago collector decide they were entitled to free entry, they would come in free, while those that pass at Port Huron would be at a disadvantage of one-half cent per pound (a large disadvantage to a wholesale dealer). There can be no such thing as tons of fish being for "immediate consumption." Fifty or a hundred pounds fish might be for immediate use, but larger quantities usually pass through many hands before reaching the consumer. Cannot this matter be taken up by the Department and a decision reached that will apply to all places of entry from Canada, either in fresh or frozen fish? We, and other dealers as well, cannot conduct our business intelligently when the matter is left for different collectors to determine what fish shall cost us, or what we shall sell at, as Canada fish are heavy competitors at times. A large amount of capital is invested in this country in boats, tugs, nets, freezing-houses, and large bodies of men are employed; all of which is useless if Canada fish can come in free and undersell us.

The lake fishing industry of the United States is much larger than most people are aware of, as no reliable statistics have ever been published. The men are hardy, fearless sailors. Their business is a precarious one, and none of them average more than a living for themselves and families, excepting those having large capital that fish heavily; they have successful years, and make some money in the long run.

Yours, respectfully,

LAFLIN & CO.

J. G. M.—C 14-11788. }
D 133-317. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 8, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

SIR: Your assessment of duty at the rate of one-half cent per pound on certain frozen cod-fish and herring imported into your district from British North America, being in accordance with Department's decisions of January 3, 1877 (S. 3062), June 27, 1877 (S. 3280), and May 23, 1883 (S. 5729), is hereby affirmed on the following appeals submitted by you on the 2d instant, viz.:

20790, C. A. Ingalls, 50 boxes, per G. T. R. R., January 18, 1886.

20800, C. A. Ingalls, 87 casks, per G. T. R. R., January 26, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

J. G. M.—C 14-11815. }
D. 133-330. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 9, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

SIR: Your assessment of duty at the rate of one-half cent per pound, on certain frozen smelts imported into your port from the Dominion of Canada, being in accordance with Department's decisions of January 3, 1877 (S. 3062), June 27, 1877 (S. 3280), and May 23, 1883 (S. 5729), is hereby affirmed on the appeal (23110) of C. A. Ingalls per rail (car No. 418), January 4, 1886.

Respectfully, yours,

C. A. FAIRCHILD,
Assistant Secretary.

J. G. M.—C 14-12102. }
D. 133-373. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 12, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

SIR: In your assessment of duty at the rate of one-half of one cent per pound on certain frozen trout and smelts imported into your district from Canada, being in accordance with Department's decisions of January 3, 1877 (S. 3062), June 27, 1877 (S. 3280), and May 23, 1883 (S. 5729), is hereby affirmed on the appeals, 27330 and 27340 of C. A. Ingalls, covering importations per rail (2,152 pounds), January 29, 1886 and 20,100 pounds, January 29, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

Hon. DANIEL MANNING,
Secretary of the Treasury, Washington, D. C.:

DEAR SIR: I have the honor to call the Department's attention to the decisions which have been made upon appeals from the assessment of duty at Port Huron and elsewhere upon fresh fish imported during the cold weather in a frozen condition, from Nova Scotia and Canada, for immediate consumption in the large markets of the country.

The collector at Port Huron has been following a decision of January 20, 1886, upon an appeal of Laffin & Co., Chicago, on frozen smelts from Chatham.

Certain clients of mine, Messrs. A. Booth & Son, J. D. McNab & Co., G. S. Sloan, and E. B. Boak, being largely interested in the importation of fresh fish for immediate consumption, have brought in several large lots of smelts, trout, and herring at Port Huron, on all of which a duty has been collected, principally, as I am led to believe, on the ground that the importations "never embrace less than 20,000 to 30,000 pounds of fish, and that the quantity imported and the fact that they can be kept for months in this condition precludes the idea that they are intended for immediate consumption." (See letter of collector, Port Huron, January 19, 1886.)

One of the principal difficulties experienced in securing from the Department a proper decision upon an appeal, is believed to be the failure on the part of appraisers

CHICAGO, February 9, 1886.

and collectors to inform the Department of the facts in any particular case fully and in such a manner as to enable the Department to come to a proper understanding of the question presented. In this case the Department has been led into error, it seems, on account of the collector having stated conclusions formed favorable to the assessment of duty rather than a fair arrangement of facts, from which the Secretary could come to a decision within the meaning and intent of the law.

With a view to obtain, if possible, a reconsideration of this fresh-fish question, I have the honor to suggest that the decisions cited in Department letter on Lafin's appeal, viz, 3062 and 3280, do not apply to the facts as they exist in these cases to which I desire to call attention. S. S. 3062 is a case of fish frozen by a patent preserving process, by means of which they may be kept for a long time. S. S. 3280 and Judge Brown's decision are upon a case disclosing the fact that the fish had been frozen "in barrels or in large pans in a solid mass or cake." We import many thousand pounds of such fish so frozen every year, and have never objected to the payment of duty thereon. The fact is, and the collector should have so stated to the Department, that the fish of Lafin, Booth, McNab, Sloan, and Baak are taken in the waters of Halifax, and as soon as they are out of the water freeze stiff on the ice, from where they are picked up and merely thrown loose into barrels and boxes. They are not covered with water and frozen in the barrels or boxes, but, as I say, each individual fish, already frozen, is thrown into the barrels like so many pieces of kindling wood.

Of course, it is only during very cold weather that the fish for immediate consumption can be so transported and got to market in large quantities. Almost all of these fish are sold for consumption in the various markets which are supplied from Chicago long before they arrive, and the shippers have to run the risk of getting them into the market in weather cold enough to preserve them fresh. It is very rare that we have seven days of continuous freezing weather here, and as the fish are caught in a much colder climate, a slight thaw often ruins large quantities of them even before arrival in Chicago.

The collector at Port Huron is in error in stating that the quantities are too large for immediate consumption, as the facts will show. Messrs. Booth & Son are believed to be the largest fish dealers in the United States; they have fish houses in all of the large cities of the West, supplying therefrom the hotels, restaurants, and public generally, and the supply at no time during the coldest weather is more than equal to the demand. They ship from Chicago as high as forty tons of fresh fish by rail during a single week, and the other dealers whose names I have given are very large dealers in fresh fish. They never salt a single fish, and it is fair to assert that not a hundred pounds of the fish imported by them in the manner I have stated are kept on hand for more than a day or two. They are not sold to curers of fish, but go immediately to the tables of the consumers in every city and town accessible by rail from Chicago to Denver. These importations are but a small part of the fresh fish daily consumed in this and adjacent cities. This is the main distributing point, and of course the cold weather is availed of to import the fish in the freshest condition possible.

This is not a doubtful question, and one which justifies a decision in favor of the Treasury, thus to compel the importer if aggrieved to appeal to the courts for correction. The law doubtless means just what those in trade and commerce mean when they say that fish are fresh, and for immediate consumption, viz, that they are to be eaten before undergoing any process calculated to preserve them for future consumption, either of salting, freezing, or smoking. It cannot be that Congress intended fish for immediate consumption should be consumed within the immediate precincts of the custom-house. They are brought many hundred miles before being passed through the custom-house, and the law does not limit the extent of territory which they may traverse, after having been passed through the collector's office, before being consumed. These fish are treated as perishable and are not admitted to the benefits of the immediate-transportation act; hence it is quite clear that there is no consistency between such treatment and the report of the collector. It cannot be supposed that the law is so absurd as to refer only to an occasional string of fish caught with a hook in the waters about Port Huron, or within range of the custom-house there. The importers of these fish are merchants employing enormous capital in their business, and are disposed to deal fairly and honorably with the Treasury Department, and do not think that the great extent of their business should be made a ground for depriving them of the privileges enjoyed by those who are able to import only a few pounds of fish for their immediate use at the place of importation.

There is no uniformity of practice in this business, it seems, from a case which I am informed was brought to the Department's attention on the Massachusetts coast. Last summer the cargo of the schooner Nesketin, of Lockeport, Nova Scotia, was entered at Worcester, Mass. It consisted of fresh halibut for immediate consumption, and the collector assessed duty upon it, but the Department ordered a reliquidation of so much of the fish as were found to be fresh. Some portions which were sold to smokers were assessed a duty. We hear of fresh fish for immediate consumption being imported in the eastern parts in large quantities, compared with some of which our importations

are quite insignificant. They are passed as free, and very properly so. And we do not believe the Department would have applied the decisions 3062 and 3250 to these cases of ours if the collector had not thrown up his hands in holy horror at the idea of any nation being able to consume 20,000 pounds of smelts in one importation.

We do not want to resort to the courts in these cases. They are too plain for argument; but if the Department will consider them I will procure sworn statements of the extent of the fresh-fish traffic in Chicago carried on by my clients, and transmit them to you in order that you may be able to judge whether in this case the "punishment fits the crime."

Awaiting your reply, I am, very respectfully,

PERCY L. SHUMAN,
Attorney for A. Booth et al.

J. R. L.]

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 13, 1886.

Mr. PERCY L. SHUMAN,
12 Borden Block, Chicago, Ill.:

SIR: The Department duly received your letter of the 9th instant, relative to the assessment of duty by the collector at Port Huron, Mich., upon certain fresh fish, so called, imported in a frozen condition from Nova Scotia and Canada, for alleged immediate consumption in the large markets of the country. After a careful consideration of the arguments submitted, the Department sees no occasion for any action in the matter.

The question as to whether fresh fish are for immediate consumption is one to be determined in the first instance by the collector at the port of arrival, who must be guided in such cases by the circumstances surrounding each importation and Department's decisions heretofore rendered in similar cases. It is the opinion of the Department that the term "immediate consumption" cannot be construed to have a different meaning for the several reasons, and an importation of fish, so extensive in quantity as to require days for its distribution to the various markets, and which accordingly could not be considered as for immediate consumption in the warmer season, cannot, by reason of continued low temperature at another season, be considered as entitled to additional privileges in consequence thereof. As stated, the collector at the port of importation must be the judge in the first instance as to whether any particular importation falls within the provision of the free-list, and the Department cannot undertake upon a general statement of the practice in such matters to establish any other rule for his guidance.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

J. R. L. C. 14-12523, }
D. 133-382. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 13, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

SIR: Your assessment of duty on certain fresh fish, being in accordance with Department's decisions of January 3, 1877 (S. 3062), June 27, 1877 (S. 3280), and May 23, 1883 (S. 5729), is hereby affirmed on the appeal (9340m) of Messrs. Ladin & Co. covering an importation per rail (car No. 1369) January 19 last.

Respectfully yours,

C. S. FAIRCHILD,
Assistant Secretary.

J. R. L. C. 14-12524 }
D. 133-382. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 13, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

SIR: Your assessment of duty on certain smelts, being in accordance with Department's decisions of January 3, 1877 (S. 3062), June 27, 1877 (S. 3280), and May 23, 1883 (S. 5729), is hereby affirmed on the appeal (2306 o) of Summers, Morrison & Co. covering importations per rail (car No. 1565) January 25 last.

Respectfully yours,

C. S. FAIRCHILD,
Assistant Secretary.

Mon. DANIEL M.
Secretary

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C. S. FAIRCHILD,
Assistant Secretary

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J. R. L. C. 14-12,5
D. 133-410.

COLLECTOR OF C

Sir: The Depart
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S. Ex. 113-

BOSTON, February 17, 1886.

Hon. DANIEL MANNING,
Secretary of the Treasury, Washington, D. C.:

Sir: On the 18th of December, 1885, we imported from the British Provinces 100 barrels mackerel by the Boston and Maine Railroad, entering the same at the custom-house here and paying duty, and at same time filed our protest and appeal, as has been our custom on all entries of fish since July last.

On the 1st of this month we were notified by the custom-house authorities that by a recent decision of the Treasury Department no more protests would be received until final liquidation of the entries, and then only within ten days of said liquidation.

To-day we are notified that the protest made on the above entry is rejected, and as the entry was liquidated February 1, we are barred from renewing the protest, the ten days having expired. We have not yet received from your Department the customary notice referring us to the collector here for a decision on our appeal in this case.

We would respectfully ask whether we should be barred from our right of protest and appeal under the above circumstances.

Respectfully yours,

EDWARD T. RUSSELL & CO.

HALIFAX, February 18, 1886.

TREASURY DEPARTMENT,
Washington, U. S. A.:

On the 20th January, 1886, I made a shipment of fresh frozen fish for immediate consumption to Chicago, Ill.—invoice No. 40, value \$330.10; Mr. Ingalls, collector at Port Huron, through whose care car was sent, as per instructions from your consul-general and railway authorities. On the car arriving at Port Huron it was detained and duty demanded, which my consignee in Chicago had to remit to Port Huron before your authorities would allow car to proceed. This caused a delay of several days, which will be a heavy loss to me beside the duty which was unlawfully collected; but I presume it will be promptly returned to me or my agent in Chicago when it is properly brought to your notice. An early reply is solicited.

Yours, truly,

C. W. OUTHIT.

CHICAGO, 2, 28, 1886.

C. S. FAIRCHILD, Esq.,
Assistant Secretary Treasury, Washington, D. C.:

DEAR SIR: We have no answer from you to ours of February 4. We have written to collectors at Saint Vincent, Minn., and Sault Saint Marie, Mich. The former decides that fish in large quantities are subject to duty of 50 cents on the 100th. The latter says "he will likely continue the practice of passing fresh fish free for immediate consumption until otherwise ordered by the Department." The fish entered at that place for import to United States are in such quantities as to preclude the idea of immediate consumption, their shipments from them ranging from 1, 2, and 3 tons to 20 tons, twice a week, to this port, and probably as much more for Detroit, Buffalo, Cleveland, and other places, all of which do not go into immediate consumption, but pass through several hands before reaching consumers. Next month many fishermen come in to contract their season's catch, and it is important to both buyer and seller to know if Canadian fresh fish packed in ice in large quantities are subject to duty or not.

Hoping for an early reply, we are,

Yours, respectfully,

LAFLIN & CO.

R. L. C. 14-12,566. }
D. 133-410. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 17, 1886.

COLLECTOR OF CUSTOMS,
Bangor, Me.:

Sir: The Department is in receipt of your letter of the 12th instant, reporting on appeal \$310.00, of the Maine Central Railroad Co., against the exaction of duty at the rate of 25 per cent. ad valorem, on certain frozen salmon imported at Vanceboro, in your district, from Canada, on the 22d ultimo, the appellants claiming that such fish are free of duty under the existing tariff laws.

S. Ex. 113—34

The Department has heretofore decided that frozen salmon of the character of those in question are dutiable on importation at the rate of $\frac{1}{4}$ of one cent per pound, and you will so instruct your deputy at Vanceboro.

No refund of the difference between the rate properly due ($\frac{1}{4}$ of one cent per pound) and 25 per cent. ad valorem, the rate assessed, can be made, as the appellants have not claimed the correct rate in their protest and appeal.

Respectfully, yours,

W. E. SMITH,
Assistant Secretary.

J. G. M. B. 11-6251. }
D. 136-307. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 23, 1886.

Messrs. E. T. RUSSELL & Co.,
P. O. Box 5279, Boston, Mass.:

GENTLEMEN: In reply to your letter of the 17th instant, you are informed that the Department, by letter to the collector of customs at Boston, dated the 9th instant, declined to entertain your appeal, 2313 O-986, covering certain salt fish imported from Canada, for the reason that the protest therein was filed prior to the date of liquidation, and that due notice of Department's action was forwarded to your address on the same date.

As it appears from your own statement that the entry in the case you refer to was liquidated February 1, on which date you were notified by the custom-house authorities of the Department's decision that protests filed prior to the date of liquidation could not be entertained, no reason is perceived for reconsidering the action of the Department in refusing to entertain the appeal in question.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

CUSTOM-HOUSE, BOSTON, MASS.,
Collector's Office, February 25, 1886.

Hon. DANIEL MANNING,
Secretary of the Treasury, Washington, D. C.:

SIR: Respectfully referring to Department letter (J. G. M.) of the 9th instant, closing the appeals 2312o-8o, 2313o-986, 2314o-91o, 2315o-75, forwarded with my report thereon on the 5th instant, wherein I am informed that said appeals cannot be entertained under Department circular of the 23d ultimo. I beg leave respectfully to return 2313o-986 of E. B. Russell & Co., wherein the filing of protest and liquidation of the entry occurred prior to February 1 instant.

Awaiting the further direction of the Department in the premises, I am, sir, your obedient servant,

L. SALTONSTALL,
Collector.

J. G. M. C. 11-13233. }
P. 133-467. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 25, 1886.

COLLECTOR OF CUSTOMS:
Boston, Mass.:

SIR: Your assessment of duty on certain salted salmon imported into your port from Canada, via St. Albans, Vt., since July 1, 1885, being in accordance with Department's decisions of June 17, 1886 (S. 6970), and July 14, 1886 (S. 7020), is hereby affirmed on the following appeals submitted by you on the 19th instant, viz, D. W. Job & Co., per R. R., February 11, 1886; 2317o, E. T. Russell & Co., per R. R., February 8, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

B. 11-6271. }
D. 136-336. }

C. W. OUTHIT,
118 to

SIR: The Department has decided in reply to the collector of customs at Vanceboro, in answer to your letter of the 17th instant, that the practice in such cases is to

J. G. M. C. 14-
D. 138-15

COLLECTOR OF
Port

SIR: The Department has decided in reply to your letter of the 17th instant, that the practice in such cases is to

Respectfully

J. G. M. C. 14-1-
D. 138-9.

COLLECTOR OF
Boston

SIR: Your assessment of duty on certain salted salmon imported into your port from Canada, via St. Albans, Vt., since July 1, 1885, being in accordance with Department's decisions of June 17, 1886 (S. 6970), and July 14, 1886 (S. 7020), is hereby affirmed on the following appeals submitted by you on the 19th instant, viz, D. W. Job & Co., per R. R., February 11, 1886; 2317o, E. T. Russell & Co., per R. R., February 8, 1886.

Respectfully

J. G. M. C. 141-
D. 138-27.

COLLECTOR OF
M

SIR: I transmit herewith the letter of the Department of the Treasury, dated February 25, 1886, in which it is decided that the practice in such cases is to

B. 11-271. }
D. 136-33a. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 25, 1886.

C. W. OUTHIT, Esq.,
118 to 120 Barrington street, Halifax, N. S.:

SIR: The Department is in receipt of your letter of the 15th instant, in regard to the importation at Port Huron, Mich., of frozen fish and of duties levied thereon.

In reply I transmit herewith a copy of a letter dated the 20th ultimo, addressed to the collector of customs at Port Huron, in regard to a similar case, and have to inform you that, as understood by the Department, the action of the collector at Port Huron, in assessing duty upon your importation, was in accordance with the usual practice in such cases.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary

J. G. M. C. 14-13269. }
D. 138-15. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 27, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

SIR: The Department is in receipt of your letter of the 12th instant, submitting the following appeals from your assessment of duty on certain frozen fish, imported at your port, viz: 29440, C. A. Ingalls, January 9, 1886; 29450, E. W. Bromilow & Co., January 26, 1886; 29460, G. C. Sloan, January 30, 1886; 29470, R. B. Boak, January 26, 1886; 29480, R. B. Boak, February 3, 1886; 29490, C. A. Ingalls, February 8, 1886. You report that the importations are similar in character to that of Mr. C. A. Ingalls, covered by the Department's decision of the 20th ultimo (not published).

The claim of the appellants that the fish in question are exempt from duty under the provision in the free list, act of March 3, 1883 (T. I. new 699), for "fish, fresh, for immediate consumption," is therefore rejected, and your assessment of duty thereon affirmed.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

J. G. M. C. 14-13263. }
D. 138-9. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 27, 1886.

COLLECTOR OF CUSTOMS,
Boston, Mass.:

SIR: Your assessment of duty on certain salted cod and mackerel imported into your port from Canada since July 1, 1886, being in accordance with Department's decisions of June 17, 1885, S. 6970, and July 14, 1885, S. 7020, is hereby affirmed on the appeal 29840-144 of A. S. Vinsor & Son, covering an importation per S. G. Irwin, December 28, 1885.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

J. G. M. C. 141-3384. }
D. 138-27. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., March 3, 1886.

COLLECTOR OF CUSTOMS,
Marquette, Mich.:

SIR: I transmit herewith a letter from Messrs. Lafin & Co., of Chicago, dated the 20th ultimo, in which it is stated that the practice at Sault St. Marie, in your district, is to admit free of duty as "fresh fish for immediate consumption," large quantities of frozen fish, ranging from one to twenty tons per importation, for transportation to Detroit, Buffalo, Cleveland, and other places.

I also enclose, for your information and guidance in such matters, copy of Department's letter of January 20, last, to the collector of customs at Port Huron, Mich., on similar importations at that port, and I will thank you to return the first-named enclosure, with a report thereon, at your early convenience.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. B 11-6895. }
D. 136-375. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., March 3, 1886.

Messrs. LAYLIN & Co.,
40 State street, Chicago, Ill.:

GENTLEMEN: The Department is in receipt of your letter of the 4th ultimo, with inclosure, and also your letter dated the 28 ultimo, in the matter of the alleged illegal importations of frozen fish at Sault St. Marie.

The inclosure (appeal) has been forwarded to the collector at Port Huron, Mich., for his report thereon, on receipt of which the matter will be duly determined.

Respecting the allegation that fish are illegally imported at Sault St. Marie, you are informed that a communication has this day been addressed to the collector of said district at Marquette, Mich., calling for a report as to the practice in question, on receipt of which such steps will be taken as are necessary to secure uniformity at the various ports of importation in such matters.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

CUSTOM-HOUSE, BOSTON, MASS.,
Collector's Office, March 9, 1886.

Hon. DANIEL MANNING,
Secretary of the Treasury, Washington, D. C.:

SIR: Respectfully referring to Department letter (J. G. M.) of the 27th ultimo, inclosing a copy of the Department's decision of the 20th of January, 1886, on the appeal (9340^m) involving the classification for duty of certain frozen smelts imported into the port of Port Huron, I desire to be instructed whether, under said decision, fish imported in a frozen condition are to be excluded from the category of "fish, fresh, for immediate consumption," under T. I., new, 699, irrespective of the quantity contained in any given importation.

The Department cites S. S. 3062 and 3280 of 1877. Was it the intention of the Department in its decision of January 20, 1886, to overrule that of May 23, 1883 (S. S. 5729), or is that to be regarded as still operative under which it is understood that fish, although frozen naturally, are entitled to free entry, provided the quantity is not "so large as to repel the conclusion that the fish is for immediate consumption"?

I would add that the requirements of S. S. 5729 have been rigidly enforced at this port.

Very respectfully, your obedient servant,

L. SALTONSTALL,
Collector.

J. G. M. C 14-13854. }
D. 138-103. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., March 12, 1886.

COLLECTOR OF CUSTOMS,
Boston, Mass.:

SIR: In reply to your letter of the 9th instant, you are informed that it was not the intention of the Department's decision of the 20th of January last, concerning the classification of frozen smelts imported into the port of Port Huron, Mich., to revoke the decision of May 23, 1883, under which fish, although frozen, are entitled to free entry (when imported in limited quantities) as fish, fresh, for immediate consumption. It is only when fresh fish in the frozen condition are imported in excessive quantities and for purposes other than immediate consumption, that they are excluded from free entry.

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

J. G. M. C 14-14002. }
D. 138-124. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., March 15, 1886.

COLLECTOR OF CUSTOMS,
Boston, Mass.:

SIR: The Department is in receipt of your letter of the 25th ultimo, returning the appeal 23130-896 of Messrs. E. T. Russell & Co., covering their importation of herring mackerel, and oil, per Muriel, December 26, 1885, which appeal the Department,

his letter of the 9th ultimo, refused to entertain for the reason that it appears from the indorsement thereon that the protest and appeal had been filed prior to the liquidation and contrary to the rule laid down in Department's decision of January 23, 1886 (S. 7386).

As it now appears from the amended indorsement on said protest that the entry was liquidated January 13, 1886, and that it accordingly does not fall within the prohibition of the decision above cited, the Department decides that the appeal can be entertained.

Your assessment of duty therefore on the merchandise covered thereby being in accordance with Department's decision of June 17, 1885 (S. 6970), and July 14, 1885 (S. 7020), is hereby affirmed.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J.G.M. C. 14. 15477. }
D. 138-374. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 1, 1883.

COLLECTOR OF CUSTOMS,
Bangor, Me. :

SIR: Your assessment of duty on certain salted salmon imported into your district from Canada since July 1, 1885, being in accordance with Department's decisions of June 17, 1885 (S. 6970), and July 14, 1885 (S. 7020), is hereby affirmed on the appeal of Messrs. E. T. Russell & Co., per railroad via Vanceboro', March 6, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J.G.M. C. 14. 15465. }
D. 138-276. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 1, 1886.

COLLECTOR OF CUSTOMS,
Boston, Mass. :

SIR: Your assessment of duty on certain salted mackerel and herring imported into your port from Canada since July 1, 1885, being in accordance with Department's decisions of June 17, 1885 (S. 6970), and July 14, 1885 (S. 7020), is hereby affirmed on the following appeals submitted by you on the 26th ultimo, viz: 4660-182. E. T. Russell & Co., per "St. Pierre," March 9, 1886. 4661-183. E. T. Russell & Co., per "Linn O'Dee," March 5, 1886. 4662-184. Whitney Pousland & Co., per "Louise," March 8, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J.G.M. C. 14. 15483. }
D. 138-274. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 1, 1886.

COLLECTOR OF CUSTOMS,
Saint Vincent, Minn. :

SIR: Your assessment of duty at the rate of 50 cents per one hundred pounds on certain frozen fish imported into your district from Canada, being in accordance with Department's decisions of January 3, 1877 (S. 3062), June 27, 1877 (S. 3280), and January 20, 1886 (copy furnished you on the 30th of January), is hereby affirmed on the following appeals forwarded by you on the 22d ultimo, it appearing that the said fish are imported in such large quantities as to preclude the presumption that they are for immediate consumption, as claimed by the appellants, viz: 46580, Sinclair & Haganan, 26,000 pounds per rail, March 18, 1886; 47250, T. H. Jones, 24,000 pounds per rail, March 18, 1886; 47260, T. H. Jones, 30,000 pounds per rail, March 20, 1886; 47260, T. H. Jones, 20,000 pounds per rail, March 20, 1886; 47260, T. H. Jones, 24,000 pounds per rail, March 20, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. C. 14. 16011. }
D. 138-311. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 6, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

SIR: Your assessment of duty at the rate of 50 cents per one hundred pounds on certain fresh fish (frozen), claimed to be exempt from duty on the ground that they were imported for immediate consumption, being in accordance with Department's decisions of May 23, 1883 (S. 5729), and January 20, 1886 (not published), is hereby affirmed on the appeal, 46310, of C. A. Ingalls, covering an importation of 23,850 pounds, per "Huron", March 8, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. C. 14. 16191. }
D. 138-319. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 7, 1886.

COLLECTOR OF CUSTOMS,
Boston, Mass.:

SIR: Your assessment of duty on certain salted mackerel and alwives imported into your port from Canada since July 31, 1885, being in accordance with Department's decisions of June 17, 1885 (S. 6970), and July 14, 1885 (S. 7020), is hereby affirmed on the following appeals submitted by you on the 2d and 5th instant, viz: 4792, E. T. Russell & Co., per "Linn O'Dee," March 6, 1886; 4792, A. Winsor & Son, per "St. Pierre," March 10, 1886; 4797, A. Winsor & Son, per "Linn O'Dee," March 13, 1886; 4788, A. Winsor & Son, per "Annie Simpson," March 10, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. C. 14. 16123. }
D. 138-320. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 7, 1886.

COLLECTOR OF CUSTOMS,
Chicago, Ill.:

SIR: Your assessment of duty on certain salted mackerel and herring imported into your port from Canada since July 1, 1885, being in accordance with Department's decisions of June 17, 1885 (S. 6970), and July 14, 1885 (S. 7020), is hereby affirmed on the following appeals, submitted by you on the 1st instant, viz: 4794, R. B. Boak, per R. R., January 26, 1886; 4794, R. B. Boak, per "Huron," February 8, 1886; 4794, R. B. Boak, per "Huron," February 8, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. C. 14-16704. }
D. 138-391. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 14, 1886.

COLLECTOR OF CUSTOMS,
Chicago, Ill.:

SIR: Your assessment of duty on certain salted mackerel imported at your port from Canada since July 1, 1885, being in accordance with Department's decisions of June 17, 1885 (S. 6970), and July 14, 1885 (S. 7020), is hereby affirmed on the appeal 4794 of R. B. Boak, per "Linn O'Dee," February 23, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. C.
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COLLECTOR C

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Hon. SECRETAR

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J. G. M. C. 14 16706. }
D. 133-385. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 14, 1886.

COLLECTOR OF CUSTOMS,
St. Vincent, Minn.:

SIR: Your assessment of duty on certain 20,300 pounds of frozen fish imported at your port from the province of Manitoba, being in accordance with Department's rulings of January 3, 1877 (S. 3062), June 27, 1877 (S. 3280), and January 20, 1886 (unpublished), is hereby affirmed on the appeal 48780 of Messrs. A. Booth & Sons, March 20, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

ST. JOHN, April 14, 1886.

THE SECRETARY OF THE TREASURY, Washington:

SIR: I shipped a car-load of frozen herring on January 15, consigned to Messrs. E. W. Brownlow & Co., of Chicago. After they arrived at Port Huron the collector would not allow the car to proceed until the duties, amounting to \$101.60, were paid, which I did pay under protest. At the same time frozen herring were being admitted into the United States at Eastport free.

I therefore cannot see why a distinction should be made between an inland port and a sea-board one.

I would respectfully ask for a return of the amount of duties paid by me.

I remain your obedient servant,

G. L. YOUNG.
Per LANGAN.

J. G. M. B. 11-10928. }
D. 140-323. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, April 24, 1886.

G. L. YOUNG, Esq.,
St. John, N. B.:

SIR: In reply to your letter of the 14th inst., alleging a difference in the classification at inland and seaboard ports of frozen herring, you are informed that the action of the customs officials at the several ports is governed by the provision of the existing tariff acts, and that importers aggrieved thereby have ample remedy by protest and appeal, as prescribed by section 2931, Revised Statutes.

I will state, however, that frozen herring are not *ipso facto* dutiable either at Eastport or at Port Huron, their non-dutiable character being dependent upon the fact of their being fresh and for immediate consumption.

Otherwise they are dutiable, and the question in each case must be determined by the collector at the port of importation, subject to review by the Department, on protest and appeal as aforesaid, if importers so desire.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

CUSTOM-HOUSE, MARQUETTE, MICH.,
Collector's Office, April 14, 1886.

HON. SECRETARY OF THE TREASURY,
Washington, D. C.:

SIR: I have the honor to again refer to D. L., March 3, last (J. G. M.) relating to the practice at Sault Ste. Marie, in this district, of admitting free of duty as "fresh fish for immediate consumption," large quantities of frozen fish, for transportation to Detroit, Cleveland, Chicago, and other places. I inclose you herein letter from the deputy collector at Sault Ste. Marie, under date of March 11, last, reporting fully as to the condition of the fish so imported. I also inclose herein letter from E. S. B. Sutton, of Sault Ste. Marie, under date of April 10, last, protesting against my instructions to the deputy collector of that port to assess as dutiable all importations of fish exceeding 500 pounds in amount. I would respectfully state that the instructions so given by me were made to conform with the practice at Port Huron, Mich., as requested in your letter, and as advised by the collector at Port Huron. Asking your consideration of the inclosures herein, and your further instructions in the premises if you have any to issue,

I am, respectfully, yours,

C. H. CALL,
Collector.

J. G. M. C. 15-681. }
D 138-471. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 26, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

SIR: The Department is in receipt of numerous complaints from various parties against the action of the deputy collector at Sault Ste. Marie, in assessing duty on all importations of fresh fish exceeding 500 pounds in quantity, brought to that port.

By a letter dated the 14th instant, received from the collector at Marquette, Mich., it appears that the deputy collector at Sault Ste. Marie acted under instructions given by the collector at Marquette, which instructions were made to conform with the practice at your port.

I will thank you to give this matter your immediate consideration, and forward an early reply, stating the practice at your port in such cases, and if it conforms to that followed at Sault Ste. Marie, to state your reasons and authority for such course.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. C. 15-1508. }
D. 141-76. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., May 5, 1886.

COLLECTOR OF CUSTOMS,
Boston, Mass.:

SIR: Your assessment of duty on certain salted mackerel and alewives imported at your port from Canada since July 1, 1885, being in accordance with Department's decisions of June 17, 1885 (S. 6970), and July 14, 1885 (S. 7020), is hereby affirmed on the appeal of Messrs. E. T. Russell & Co., per schooner, Louise, March 9, 1886.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. C. 15-2130. }
D 141-133. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., May 14, 1886.

COLLECTOR OF CUSTOMS,
Detroit, Mich.:

SIR: Enclosed herewith please find letters dated the 16th and 19th ultimo, received from Messrs. S. H. Davis & Co., from which it would appear that fish are being entered at your port free of duty in consignments of 4 and 5 tons each. Also that while imported herring are assessed for duty when imported in lots larger than 500 pounds each, whitefish and trout are admitted free.

As it is highly important that the practice at the several lake ports should be uniform in this matter, I will thank you to return the enclosure with a report from yourself stating the practice at your port in such cases, and giving your reasons and authority therefor.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

C. H. CALL, Esq.,
Collector of Customs, Marquette:

DETROIT, MICH., April 19, 1886.

DEAR SIR: We are informed by your deputy at the "Soo" that he has been instructed to collect a duty of 50 cents per 100 pounds on all consignments of fresh fish imported at the "Soo" over 500 pounds in weight.

Is this order intended to cover whitefish and trout for immediate consumption, or only for fresh herring? We were led to believe from the tone of his letter that it also covered the former, but we think he has misconstrued your instructions.

It is the custom of the collector at this port, Mr. Livingston, to levy one-half cent per pound on herring in larger than 500-pound lots, but he informs me that whitefish and trout will be this, as in former years, admitted free of duty. He also informs us that the same rule is observed at Port Huron and the districts east of here.

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TO THE SOLICITOR

SIR: Paragraph entry of "fish, fresh or provided for," Under the former mitting to free en or packed in ice, country, where th out further process considered as for in and in this connec such proportions, t mination by the co as for immediate c of decisions at the provision in article rate of fifty cents imported otherwise been suggested to be preserved in ice which are not inter near the port of ar each has not been affairs into which t tion is respectfu Respectfully,

We were well aware of the law exacting a duty on herring, but our collector knows of no Department order directing a duty on fresh white and trout in any quantity.

We are quite extensively interested in importing fish (white and trout only) at the "Soo," and naturally wish to have this matter adjusted before we commence operations there, as it would be a serious disadvantage to us to be compelled to pay a duty there while our competitors are entering them here free.

Trusting that if your deputy at the "Soo" has misconstrued your order, you will have it speedily rectified, we remain,

Respectfully, yours,

S. H. DAVIS & CO.

DETROIT, MICH., April 16, 1886.

Hon. SECRETARY OF THE TREASURY,
Washington:

DEAR SIR: We have been informed by your deputy collector at Sault Saint Marie that he has been instructed to collect a duty of $\frac{1}{2}$ cent per pound on all consignments of fresh fish entered at that point over 500 pounds in weight and coming from Canada.

We wish to know whether this order is a general one at all ports of entry or simply confined to this one port? We ask because fish are now being entered from Canada at this port in 4 and 5 ton consignments free of duty.

We are extensively interested in the "Soo," and naturally protest against paying duty there unless the same tax is levied at all other points, viz: Cheboygan, Port Huron, Detroit, Cleveland, Buffalo, &c., all of which ports are now entering fish free of duty.

Last season all of our fish from Canada (that is, fresh and for immediate consumption) came over free of duty; and, if not asking too much, would like to know the cause of this reversal.

This is a matter of serious importance to us, and an early solution of our trouble is earnestly solicited.

Very respectfully,

S. H. DAVIS & CO.

J. G. M.]

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., June 16, 1886.

TO THE SOLICITOR OF THE TREASURY:

SIR: Paragraph 699 of the "free list," act of March 3, 1883, provides for the free entry of "fish, fresh, for immediate consumption," while paragraph 280 of the same act provides that "foreign-caught fish, whether fresh," &c., "not specially enumerated or provided for," shall be dutiable at the rate of fifty cents per one hundred pounds. Under the former provision a practice has arisen, at most of the frontier ports, of admitting to free entry quantities of Canadian fish imported in cars and vessels, frozen or packed in ice, which are intended for distribution to the various large cities of this country, where they are either immediately disposed of or placed on ice to be sold without further process of preservation. The question as to whether fish so imported can be considered as for immediate consumption is respectfully submitted for your consideration, and in this connection I desire to state that the practice has at several ports grown to such proportions, ranging from 500 pounds to several tons per shipment, that the determination by the collector in such instance of whether such quantity can be considered as for immediate consumption is extremely difficult, and has resulted in a wide range of decisions at the several ports, unsatisfactory alike to officers and importers. The provision in article 280 for foreign "caught fish, fresh," assessing duty thereon at the rate of fifty cents per hundred pounds, would seem to indicate that such fish when imported otherwise than for immediate consumption should pay duty. A rule has been suggested to the effect that all importations of fresh fish which are intended to be preserved in ice and sent in refrigerator cars or otherwise to other localities, and which are not intended for consumption on or about the time of importation, and at or near the port of arrival, should be held as dutiable under the paragraph last named. Such has not been the practice heretofore, but in view of the unsettled condition of affairs into which the present practice has brought the importation of fresh fish, your opinion is respectfully requested as to what rule can safely be adopted in the premises.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

St. John, July 15, 1886.

The TREASURY DEPARTMENT,
Washington, D. C.:

GENTLEMEN: On the 14th of April last I wrote you concerning a car-load of fresh herring shipped by me to Chicago for immediate consumption on the 15th of January, present year.

They arrived at Port Huron on 26th and were entered for immediate consumption, and duties amounting to \$101.60 were paid.

On January 28, C. A. Ingalls, acting as agent for the consignees, E. W. Bromilow & Co., of Chicago, filed protest and appeal, which the collector at Port Huron informs me were forwarded to the Department at Washington on February 12, 1886.

As you have given me to understand in your favor of 24th April that the duties would be refunded if the fish were entered for immediate consumption and protest duly filed;

That being the case, and not having received any remittance, Mr. Murray, our A. M. consul, advised me to write you again, and consequently have taken that liberty.

Yours, respectfully,

G. L. YOUNG.

J. R. L. B 12-505.] TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
D 144-279. Washington, D. C., July 20, 1886.

Mr. G. L. YOUNG,
St. John, N. B.:

SIR: In reply to your letter of the 15th instant, you are informed that the protest and appeal of Mr. C. A. Ingalls, covering an importation of frozen herring by E. W. Bromilow, of Chicago, January 28, 1886, was duly received, and the action of the collector at Port Huron in said case affirmed by Department's letter of February 27 last.

You are also informed that the "immediate consumption" required by the tariff in order to enable fresh fish to be imported free of duty is not complied with by the withdrawal of fish under a "consumption" entry, but, as stated in said letter, the question whether such fish are for immediate consumption must be determined in each case by the collector at the port of importation, subject to review by the Department, as in this case, on protest and appeal.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

DEPARTMENT OF JUSTICE,
OFFICE OF SOLICITOR OF THE TREASURY,
Washington, D. C., September 7, 1886.

SIR: I have considered the question presented by your letter of June 16 last, in regard to the rule that should govern in the admission to free entry of fresh fish for immediate consumption.

In the free list of the act of March 3, 1883 (T. L., 699), provision is made for the free entry of "fish, fresh, for immediate consumption." By another clause of the same act duty at the rate of 50 cents per 100 pounds is assessed (T. L., 280) on "foreign-caught fish imported otherwise than in barrels or half-barrels, whether fresh, smoked, dried, salted, or pickled, not specially enumerated or provided for in this act." It is stated that a practice has arisen at most of the frontier ports of admitting to free entry quantities of Canadian fish imported in cars and vessels, frozen or packed in ice, which are intended for distribution to the large cities of this country, where they are either immediately disposed of or placed on ice to be sold without further process of preservation. It is also stated that a rule has been suggested to the effect that all importations of fresh fish intended to be preserved in ice and transported as above stated, with no intention of consumption on or about the time of importation and at or near the port of arrival, should be held dutiable under the provision last mentioned herein. The question as to the meaning of immediate consumption within the intent of the act of Congress is a difficult one in this connection. Foreign-caught fish imported fresh are dutiable, and fresh fish imported for immediate consumption are free of duty. These two provisions must be reconciled. In the tariff act of 1881 the language applicable to the free entry of this article was "fish, fresh, caught from daily consumption." This continued until the act of 1870 included it in the free list as "fish, fresh, for immediate consumption." It was brought into the Revised Stat-

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utes according to the latter description, and was so re-enacted in the tariff act of 1883, now in force. By the use of the term "immediate" no change was intended from the former condition expressed by the term "daily." These two terms are interchangeable as here used. They both relate to current time. Where Congress has not defined the meaning of terms used, or has not limited or qualified them, it does not become the executive officers of the Government to limit or qualify them beyond their ordinarily accepted or popular meaning. The fish to be imported free must be fresh, that is, not salted, smoked, pickled, or preserved. The fact that they are packed in ice has no significance in determining this question. Neither does the quantity in any one importation signify anything, nor the distance to which it may be the purpose to transport them. The collector at the port of arrival should judge from all the circumstances as to their character and whether they are for immediate consumption, that is, whether they are brought into the country to supply the present demand of the market; whether they are to become at once a part of the daily food supply for the people; not that they are to be eaten the same day of arrival or the next day, but are brought in with this expectation or possibility in view. The illustration given by the collector at Detroit of large importations of whitefish, lake trout, &c., at once dispatched to different large cities, viz, Cincinnati, Indianapolis, Saint Louis, &c., in fish cars packed with ice, to be laid down in the market of those cities and sold at the earliest possible time, seems to me to afford a circumstance favorably disposing of the question in the particular case. The evident object of the special provision is a beneficent one, namely, to supply the immediate necessities of the people with an article of subsistence easily and cheaply procured. And this consideration may go far toward solving the question.

Whatever doubt there may be, however, from want of comprehension in the language used must be solved in favor of the importer and consumer, for taxes are never to be assessed on a doubtful interpretation of the law.

I conclude with the remark that no precise rule can be laid down which limits the quantity of the fish imported or the time in which the fish are to be consumed. The evident purpose, the character of the article, and the circumstances alone must be considered as governing the customs officer.

Very respectfully,

A. McCUE, *Solicitor.*

THE SECRETARY OF THE TREASURY.

J.G.M. C. 15. 13856. }
D. 147-49. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., September 10, 1886.

COLLECTOR OF CUSTOMS,

Port Huron, Mich.:

SIR: The subject of the free importation of fresh fish for immediate consumption (T. I., new, 699) has been carefully considered by the Department with a view to securing uniformity in the practice thereunder at the several ports on the northern frontier.

Referring to your letter of April 29th last, reporting the practice at your port in such cases, I have to state that it appears from a report received from the collector of customs at Detroit (copy herewith) that the limitation of 500 pounds, as established at his port, applies only to herring, larger quantities of which, when imported at his port, are presumed to be intended for salting or preserving, as they cannot be disposed of for immediate consumption. The reasons governing his action would appear to be sufficient at his port, but may or may not be equally applicable at ports in your district or elsewhere on the northern frontier.

The same is true regarding the rule at that port admitting whitefish and trout to free entry when imported in "any quantities." No positive rule can be established for the guidance of customs officers at the several ports. They must in each instance be governed by the facts surrounding the importation and the practice of importers at their particular port.

The Department, however, is of the opinion that where fish cannot be utilized in the quantities imported for food purposes without salting or some process of preserving which will take from them their distinctive character as "fresh fish," duty should be assessed. In such condition they are not fish fresh for immediate consumption, under paragraph 699 of the free list, but are foreign-caught fish * * * fresh, * * * within the meaning of T. I., new, 280.

In other cases, customs officers must be governed as stated by the facts surrounding the particular importation, but it is suggested that in assessing duty in such cases care should be taken to make the practice correspond as near as possible at the several ports.

As a general rule, fish which are to be consumed in the condition as caught, without salting or preserving, may be considered as falling within the provisions of paragraph 699.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. C. 15. 13858. }
D. 147-48. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., September 10, 1886.

COLLECTOR OF CUSTOMS,
Marquette, Mich.:

SIR: Enclosed please find copy of a letter addressed to the collector at Port Huron, respecting the classification for duty of importations of so-called "fresh fish for immediate consumption."

I will thank you to have the customs officials at Sault Ste. Marie and other ports in your district instructed to conform the practice at their ports, so far as possible, to the views therein expressed.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

J. G. M. C. 15. 13927. }
D. 147-85. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., September 15, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

SIR: In reply to your letter of the 9th instant, relative to the dutiable character of fresh fish, the produce of fisheries upon the Canadian banks of the St. Clair River, you are informed that, under Department's decision of June 17, 1885 (S. 6963), such fish, when caught by American citizens, are entitled to free entry as the produce of American fisheries (T. L., new, 749).

No other or further rule for your guidance in the matter of the classification of fresh fish for immediate consumption, when imported by others than American citizens, can be given than is contained in Department's instructions to you of the 9th instant. (See par. 5, Cir. No. 124, Sept. 11.)

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

CUSTOM-HOUSE, PORT HURON, MICH.,
Collector's Office, September 16, 1886.

SECRETARY OF THE TREASURY,
Washington, D. C.:

SIR: I have the honor to acknowledge receipt of Department letter (J. G. M.), dated September 10, 1886, inclosing letter received from the collector at Detroit upon the subject of free importations of fresh fish for immediate consumption, the object of the communication being to secure uniformity of practice thereunder at the several ports on the northern frontier.

In reply, I have to state that the practice at this port and at Detroit appears to be the same so far as affects the importation of herring, viz, to permit free importations, for reasons stated, of any quantity not exceeding 500 pounds.

But, contrary to the practice of my predecessor here, the collector at Detroit permits free entry upon proper oath of any quantity of white fish or trout, upon the ground that these fish are more valuable in a fresh state, and therefore not likely to be disposed of in any other condition.

He further states that they are imported in large ice-boxes, placed in refrigerated cars and shipped to all parts of the country, and he considers fish so preserved and shipped to New York, and sold on the markets there, to be as much "fresh fish for immediate consumption" as if retailed on the streets of Detroit.

I fail to find any regulations to sustain this opinion. On the contrary, S. S. 3069 and 3181, directed to the collector at Detroit, as well as S. 5729, seem to me to preclude such idea.

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Hon. THOMAS F.
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J. G. M. B. 12.
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Mr. T. C. ALLEN,
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SIR: Messrs. Abb
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The case seems to be one where the Department should issue positive instructions to collectors on the northern frontier

I might say further that the principal importations at this time in this district are in small lots at outlying ports, whence they are shipped to Davis & Co., Detroit, who place them in refrigerator cars for shipment to the principal cities.

I construe your letter as answering the inquiry upon the same subject contained in my letter of September 9, 1886.

Very respectfully,

CHAS. A. WARD,
Collector.

J.G.M. C. 15. 14665. }
D. 147-200. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., October 1, 1886.

COLLECTOR OF CUSTOMS,
Port Huron, Mich.:

Sir: The Department duly received your letter of the 16th ultimo relative to a variance existing between the practice at the port of Detroit and that hitherto in vogue at your port regarding the importation of whitefish and trout in a fresh state, and for immediate consumption.

The Department is unable to give any more positive instructions than were contained in the letter of the 10th ultimo, the concluding paragraph of which states that as a general rule fish which are to be consumed in the condition as caught, without salting or preserving, may be considered as falling within the provisions of paragraph 683, T. I., new.

This rule, as indicating the more recent views of the Department, must be considered as modifying all other rulings and former decisions which may appear to be in conflict therewith.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

LUBEC, October 5, 1886.

Hon. THOMAS F. BAYARD:

DEAR SIR: I write to you for information in regard to our fish law. I wish to know whether herring caught in Canadian waters and brought to the lines in Canadian boats, then transferred from Canadian boats to American boats on the lines, exempts them from duties. These are fresh I name. Please inform me soon as you can.

Yours, truly,

T. C. ALLEN.

J.G.M. B. 12. 6834. }
D. 148-215. }

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., October 13, 1886.

Mr. T. C. ALLEN,
Lubec, Maine:

Sir: In reply to your letter of the 5th instant, relative to the dutiable character of herring caught in Canadian waters and brought to the lines in Canadian boats and there transferred to American boats, you are referred to the collector at Eastport, Me., who will furnish you the desired information, it being the rule of the Department not to pass upon questions of this character except when presented by protest and appeal from the action of the collector on bona fide importations.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

CUSTOM-HOUSE, BANGOR, ME.,
Collector's Office, October 19, 1886.

Sir: Messrs. Abbott Brothers, of Dexter, in the State, are engaged, or are about to engage, in the business of importing into the United States fresh fish of different kinds in a frozen state.

Their process of preparing the fish is to store them in rooms which are kept at low temperature by galvanized iron pipes which are filled with salt and ice. This mode of freezing is not patented, and is an invention of their own.

They operate at Mangaree Harbor, Cape Breton, and they wish to be informed whether fish prepared in this manner will be liable to a duty of one-half a cent per pound, the same as those prepared or frozen by patent process in Canada.

I would respectfully ask for the decision of the Department in relation to this matter.

Very respectfully,

D. F. DAVIS,
Collector.

Hon. SECRETARY OF THE TREASURY,
Washington, D. C.

J. G. M.—C 16-919. } TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
D 147-440. } Washington, D. C., October 28, 1886.

COLLECTOR OF CUSTOMS,
Bangor, Me.

SIR: In reply to your letter of the 19th instant, relative to the dutiable character of fresh fish frozen by a new unpatented process which it is proposed to import at your port from Cape Breton, you are referred to Department's decision of the 10th ultimo (S. 7746), in which it is stated that customs officers must be governed by the facts surrounding each particular importation, but that, as a general rule, fish which are to be consumed in the condition as caught, without salting or preserving, may be considered as falling within the provisions of paragraph 699 for "fish, fresh, for immediate consumption."

The fact that these fish are to be frozen by a process different from the patent process heretofore in vogue would not seem to affect their dutiable character. Frozen fish which have been intentionally frozen in order to preserve them have been heretofore held to be subject to duty—see Department's decisions of January 3, 1877 (S. 3062) and June 27, 1877 (S. 3280)—the United States circuit court, in its decision therein cited, having expressed the opinion that such fish, while undoubtedly fresh, could not be considered as intended for immediate consumption.

This rule would seem to apply to the fish covered by your letter of inquiry.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

No. 65 WALL STREET,
New York, November 5, 1886.

Hon. DANIEL MANNING,
Secretary of the Treasury, Washington, D. C.:

SIR: As attorneys for several importers of fresh fish, we desire to be informed, if not inconsistent with the practice of your Department, of your decision touching the matters hereinafter referred to.

A large fleet of American fishing schooners leave Gloucester, Mass., early in December and rendezvous at the fishing grounds in open sea off Fortune Bay, Newfoundland, to catch herring. The crews are employed in catching the fish, and the master, if opportunity offers, purchases from the fishing yawls surrounding the fleet. The temperature ranges about 20 degrees below zero, and the fish as they are caught are allowed to remain on the deck, and in a short time are frozen stiff, and at nightfall are shoveled into the hold. As soon as about 700 barrels in bulk of these "fresh frozen herring" are on board, the schooners leave perchance for this port, where the fish is immediately unloaded and sold to hucksters for about 2 to 3 cents per pound.

We have given you above an account of how the "fresh frozen herring" are caught and brought to this market, and we desire to be informed if you do not consider these fresh frozen herring "fish fresh for immediate consumption," and as such free of duty.

Your Department has lately made several decisions as to fresh fish, and the trade are naturally somewhat nervous. They have been for many years past admitted to free entry. Do you know of any reason why they should be deemed dutiable?

Thanking you in anticipation, we are sir,

Your obedient servants, &c.

R. J. GODWIN & SONS,
65 Wall Street, New York.

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D 142-421. }

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., November 18, 1886.

Messrs. R. J. GODWIN & SONS,
No. 65 Wall Street, New York, N. Y.:

GENTLEMEN: In reply to your letter of the 5th instant, in which you enquire as to the dutiable character of herring, which may be brought to American ports in American fishing schooners in a frozen condition, the result of the fish having been left over night on deck, I have to state that the Department does not make a practice of answering hypothetical questions of this character.

I enclose, however, a copy of Department's decisions of September 10, 1886 (S. 7746), and invite your attention to the last paragraph thereof.

The circumstances surrounding each importation will have to be taken into consideration by the collectors at the ports of arrival, but the fact that fish are frozen is not sufficient in itself to make them dutiable if the other circumstances surrounding the importation are sufficient to establish the fact that they are imported fresh for immediate consumption (see S. 7837).

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

APPENDIX B.

WHAT ARE AMERICAN FISHERIES?

No. 1.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., August 13, 1873.

COLLECTOR OF CUSTOMS,
Salem, Mass.:

SIR: In reply to your letters of the 8th and 9th instant, requesting instructions in regard of the dutiable character of the cargo of the American fishing schooner Isaac Rich, which cleared from your port on the 21st of April last, I have to say that the portion of the fish caught by the crew of said vessel or by men employed by the captain for that purpose, as well as the oil extracted therefrom, is free of duty under the act of March 2, 1861, which exempts from duty "Oil, spermaceti whale and other fish of American fisheries, and all other articles the produce of such fisheries." The herring and other portion of the cargo purchased by the captain, and not caught by men employed by the captain for that purpose, cannot be considered as the produce of American fisheries, and are therefore not exempt from duty; neither is the salt used in curing the same exempt from duty, as said herring, &c., where not taken by a vessel licensed to engage in the fisheries.

A copy of this letter will be sent to the collector at Boston, where the salt was withdrawn, for his information.

I am, very respectfully,

WM. A. RICHARDSON,
Secretary.

No. 2.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., June 21, 1873.

Hon. T. W. FERRY,
President of the Senate:

SIR: I have the honor to acknowledge the receipt of your letter of the 26th ultimo, inclosing a communication from John O'Malley, of La Pointe, Wis., making the following inquiries in regard to American vessels fishing upon Lake Superior, viz:

(1) Can an American vessel engaged in fishing upon the northern shores of Lake Superior, in Canadian waters, with American twine and American labor, salt the fish upon the vessel and bring them into the United States free of duty?

(2) Does an American vessel engaged in fishing or the coasting trade, on clearing for a Canadian port become liable to tonnage tax?

In reply to the first question I have to state that neither the treaty of Washington nor any other treaty with Great Britain authorizes American fishermen to fish upon the northern shores of Lake Superior, or provide that fish there caught shall be entitled to free entry into the United States.

Such fish, however, caught by permission of the Canadian Government, express or implied, on American vessels and salted therein, would be duty free on entry under the provision in section 2505 of the Revised Statutes for "the produce of American fisheries," and the decision of the Department contained in a letter to the collector of customs at Boston under date of the 22d of January, 1869, to the following effect: "If foreign salt is used without the limits of the United States in curing fish of American catch, the fish are not thereby rendered dutiable, nor is the salt so used liable to duty."

"If salt purchased abroad for the curing of fish is not consumed in the curing, but is brought into an American port, the salt would then be liable to duty, but the fish of American catch, cured with such foreign salt, before importation, are free of duty."

To the second question I answer that a vessel engaged in fishing or the coasting trade does not become liable to tonnage tax on clearing for a foreign port.

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COLLECTOR OF C

SIR: The ques
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COLLECTOR OF CU
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Hon. T. W. FERRY,
United States S
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depriving fish of
section 2505 of

But a coasting vessel so clearing *directly*, or a vessel entering a Canadian port on the lakes during a fishing voyage, would be required to pay the tax on her return to the United States, provided it had not been paid within a year.

I have the honor to be, sir, your obedient servant,

CHARLES F. CONANT,
Acting Secretary.

No. 3.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May 15, 1877.

COLLECTOR OF CUSTOMS,
Boston, Mass. :

SIR: The question has arisen in regard to what proof is accepted by collectors of customs to show that oil and bone, claimed to be the products of American fisheries, are really such products, when brought into American ports by vessels other than those employed in the catch.

Vessels entering Saint Lawrence Bay, on the Siberian coast, laden with the products of American fisheries, there transship their cargoes to other vessels. There is no consular officer and no American citizen resident there. It is proposed to have the captain and mate of the vessel actually catching the cargo certify upon the transshipment the facts in the case, and the question is whether such certificate can be properly accepted as conclusive.

I will thank you to report your views in regard thereto at an early date.

Respectfully,

H. F. FRENCH,
Assistant Secretary.

No. 4.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., September 1, 1877.

COLLECTOR OF CUSTOMS,
San Francisco, Cal. :

SIR: I inclose herewith a copy of a letter dated the 30th ultimo from Mr. J. M. Bartlett, stating that certain cargoes consisting of the products of American fisheries are expected to arrive at your port.

The following telegram has been sent to you to-day in regard to the matter:

"Allow free entry of merchandise per barks Legal Tender and Jenny Pitts, if satisfied it is product of American fisheries, and that regulation evidence is unattainable."

The application is favorably indorsed by the collector of customs at New Bedford, and the parties concerned propose to furnish evidence substantially complying with that required by circular of the 13th of June last.

Should there, in your opinion, be any good reason why free entry of the merchandise should not be allowed, you will please report the fact to the Department.

Very respectfully,

H. F. FRENCH,
Assistant Secretary.

No. 4½.

OFFICE OF THE SECRETARY,
Washington, D. C., April 20, 1878.

MR. T. W. FERRY,
United States Senate:

SIR: I have the honor to acknowledge the receipt of your letter, dated the 15th instant, inquiring whether a citizen of Michigan engaged in fishing in Lake Superior can cure his fish upon Canadian soil, and afterwards send them to the United States on steamers plying between the United States and Canada.

The right to cure fish on a foreign shore in certain cases is recognized by the act of Washington, and such curing would not be considered by this Department as depriving fish of their right to free entry as the produce of American fisheries under section 2505 of the Revised Statutes.

The free entry of the produce of American fisheries brought into the United States from a foreign place, in a vessel other than the one in which the fish were taken, is authorized by the Regulations of this Department, of which a copy is inclosed herewith, for your further information.

Fish caught, cured, and imported as you describe may therefore be admitted to free entry if, as is presumed to be the case, they were taken in a vessel enrolled and licensed for the foreign and coasting trade on the northern, northeastern, and northwestern frontiers.

Very respectfully,

JOHN SHERMAN,
Secretary.

No. 5.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May, 14, 1878.

Capt. H. M. NICHOLS,
Chelsea, Mass.:

SIR: The Department is in receipt of your letter of the 6th instant, stating that you propose to fit out a vessel to engage in taking turtle in the Gulf of Mexico, and inquiring whether turtle so taken would be subject to duty on importation into the United States.

In reply you are informed that the free list of the Revised Statutes exempts from duty spermaceti, whale, and other fish oil of American fisheries and all other articles the produce of such fisheries.

Turtles caught by vessels properly documented under the laws of the United States would be regarded by this Department as the produce of American fisheries, and therefore free of duty.

Very respectfully,

JOHN SHERMAN,
Secretary.

No. 6.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., November 7, 1878.

COLLECTOR OF CUSTOMS,
Duluth, Minn.:

SIR: This Department is in receipt of a communication from Special Agent John Douglass, stating that fish caught by United States fishermen in United States vessels will be imported at your port from Prince Arthur's Landing, Canada, in steamers, and their free entry requested. He therefore inquires—

(1) Whether vessels of 25 feet in length may engage in the business?
(2) What proof is necessary that the fish were caught in American vessels, there being no United States consular officer at Prince Arthur's Landing?

(3) Whether, if the fish are cured with foreign salt, they may be admitted free? The Department has to state: (1) that if the vessel is properly documented as a vessel of the United States her length is not material; that if not so documented the fish would be dutiable; (2) that the proof necessary that the fish were caught in a vessel of the United States is specified in the inclosed circular of the Department dated the 13th of June, 1877; and (3) that the fact of the fish being cured with foreign salt will not render them subject to duty.

Very respectfully,
By order:

H. F. FRENCH,
Assistant Secretary.

No. 7.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 5, 1880.

COLLECTOR OF CUSTOMS,
Eastport, Me.:

SIR: The Department is in receipt of your letter of the 25th ultimo, in which you inquire whether lobsters caught in Canadian waters by fishermen on board an American vessel licensed for the fisheries may be cured in domestic tin cans on board the vessel and brought to the United States free of duty.

In reply,
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By order:

COLLECTOR

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Hon. DANIEL
Secreta

In reply you are informed that, in the opinion of the Department, neither the shell-fish nor the packages in question would be subject to duty under any provision of law.

Very respectfully,

By order:

H. F. FRENCH,
Assistant Secretary.

No. 8.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 20, 1882.

COLLECTOR OF CUSTOMS,
Boston, Mass. :

Sir: The Department has duly considered the appeal (7648 g) of Messrs. Wendell & Phillips from your assessment of duty at the rate of one dollar per barrel on 132 barrels of herring imported into your port from St. Pierre, Miquelon. The appellants claim that the fish in question were caught in Fortune Bay, Newfoundland.

The only evidence in support of the claim that the herring were the product of the Newfoundland fisheries consists of memoranda on a certificate from the foreign customs officer that the fish were of English catch.

This evidence is not satisfactory to the Department.

It must be made to appear by competent evidence from Newfoundland by what vessel the fish were caught and what her nationality was. Also that the fish were the produce of the fisheries of the colony of Newfoundland, by which term is meant fisheries carried on by the people of that colony, or by persons authorized by its laws.

Sixty days from date will be given to the appellants to produce the desired proof. If not produced within that time, your assessment of duty will stand affirmed.

Very respectfully,

H. F. FRENCH,
Acting Secretary.

No. 9.

DEPARTMENT OF JUSTICE,
OFFICE OF THE SOLICITOR OF THE TREASURY,
Washington, D. C., June 10, 1885.

Sir: I have the honor to acknowledge the receipt of your letter of the 5th instant, requesting my opinion as to the questions presented by the collector at Eastport, viz:

1. After July 1 next, when the treaty with Great Britain of May 8, 1871, shall have terminated, will fresh fish caught in foreign waters in open boats of less than five tons burden owned and manned by citizens of the United States be free of duty, under paragraph 749 of the tariff act of 1883?

2. Will fresh fish taken from weirs in foreign waters by boats of the class referred to be free of duty under that paragraph?

It is provided by the act aforesaid that the following articles when imported shall be exempt from duty: "Oil, spermaceti, whale, and other fish oils of American fisheries, and all other articles the produce of such fisheries."

I understand the term American fisheries, as used in the paragraph cited, to characterize those carried on by citizens of the United States.

It may be remarked that vessels of less than five tons burden engaged in the occupation, if unlicensed, are not subject to the penalties of this statute.

Whether the first are taken from weirs along the shore or caught in the open sea, I think they are equally the product of American fisheries if so taken by American citizens engaged in the business.

Accordingly, I answer the inquiries of the collector in the affirmative.

Very respectfully,

A. MCCUE,
Solicitor of the Treasury.

Hon. DANIEL MANNING,
Secretary of the Treasury.

CUSTOM-HOUSE, GLOUCESTER, MASS.,
Collector's Office, December 7, 1886.

HON. SECRETARY OF TREASURY,
Washington, D. C.:

SIR: The schooner Arthur D. Story, which sailed from this port, under a register, bound on a fishing voyage to the western coast of Newfoundland, has returned with a cargo of salt herrings. The vessel carried salt, barrels, some nets, and part of a crew. Seven men and nets were hired in Newfoundland to assist in catching the cargo. I am of the opinion that the fish, having been salted on board an American vessel, with American salt, became the product of the American fisheries, and as such should be admitted duty free, and I think was so decided by Secretary McCulloch in 1867, 1868, or 1869; but finding no decision to that effect on record in this office, I have assessed duty, subject to your decision, which the owners have paid under protest.

I am, very respectfully, yours,

D. S. PRESSON,
Collector.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., December 18, 1886.

COLLECTOR OF CUSTOMS,
Gloucester, Mass.:

SIR: In reply to your letter of the 7th instant, asking whether fish brought into your port by the schooner Arthur D. Story, which sailed from your port on a fishing voyage to the western coast of Newfoundland, and has returned thence with a cargo which had been taken by the crew of the vessel, with the assistance of men and nets hired in Newfoundland for that purpose, would be free of duty, you are informed that such fish, having been taken by an American vessel licensed for the fisheries, are entitled to entry free of duty as the produce of American fisheries, under T. I. new 749, and the principles enunciated in Department's decisions of February 9, 1869 (S. 353), August 13, 1873 (copy herewith), and February 28, 1877 (S. 3131).

Respectfully, yours,

C. S. FAIRCHILD,
Assistant Secretary.

SIR: Please pay sum of money collected at each Atlantic during the term between the termination, in 1871; for the year 1886, can be imported in foreign. Respectfully

Hon. WILLIAM
Chief of

Hon. DANIEL MAZ
Secretary of

DEAR SIR: I have instant, asking for Atlantic or on Can (1) Discrimination fish not fresh.

(2) Distinguishing posted at Atlantic (3) Specifying the each year.

The period covered this time there were that of 1854, proclaimed, the treaty of 1855. It will be obvious within the provision

AS TO

(4) Referring to the Atlantic or on Can this office furnish no therefore, the state North American Post have been separate information asked for

APPENDIX C.

DUTIES COLLECTED ON FISH.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., December 13, 1886.

SIR: Please prepare for me, at your earliest convenience, a statement showing the sum of money collected as duties on fish (discriminating between fresh and not fresh), at each Atlantic port, each year during the five years before 1854; for each year during the term of the reciprocity treaty of 1854; for each year during the period between the termination of that treaty and the beginning of the treaty of Washington, in 1871; for each year during the term of the treaty of Washington, and also for the year 1886, caught in North Atlantic or on Canadian or Newfoundland coasts and imported in foreign vessels, specifying the kind of fish.

Respectfully, yours,

DANIEL MANNING,
Secretary.

Hon. WILLIAM F. SWITZLER,
Chief of Bureau of Statistics.

TREASURY DEPARTMENT,
BUREAU OF STATISTICS,
Washington, D. C., December 17, 1886.

Hon. DANIEL MANNING,
Secretary of the Treasury:

DEAR SIR: I have the honor to acknowledge the receipt of your letter of the 13th instant, asking for the amounts of duty collected on imports of fish caught in North Atlantic or on Canadian or Newfoundland coasts, with the following distinctions:

- (1) Discriminating as to the amounts of duty collected on imports of fish fresh and fish not fresh.
- (2) Distinguishing as to the amounts of duty collected on each kind of fish imported at Atlantic ports each year.
- (3) Specifying the duties collected on each kind of fish imported in foreign vessels each year.

PERIODS COVERED BY RECIPROCITY TREATIES.

The period covered by your inquiry extends from 1850 to 1886, inclusive. During this time there were two reciprocity treaties between this country and Canada: First, that of 1854, proclaimed September 11 of that year, and terminated March 17, 1866; second, the treaty of 1873, proclaimed July 1 of that year, and terminated June 30, 1885. It will be observed that a portion of the fiscal years 1855 and 1867 is embraced within the provisions of the reciprocity treaties.

AS TO THE WATERS WHERE IMPORTED FISH ARE CAUGHT.

- (1) Referring to the branch of your inquiry as to the imports of fish caught in North Atlantic or on Canadian or Newfoundland coasts, I have to state that the records of this office furnish no information as to the waters in which imported fish are taken. Therefore, the statements furnished embrace the imports of fish from the British North American Possessions (excluding British Columbia when the imports therefrom have been separately shown in the records), as being the nearest approach to the information asked for.

MANNER IN WHICH RECORDS OF DUTIES COLLECTED ON IMPORTS HAVE BEEN KEPT.

(2) Prior to 1867 no complete records were kept of the amounts of duty collected on each article imported into the United States, nor have records been kept since that period as to the amount of duty collected on the *various articles* which are imported from *each country*, the accounts of duties collected on the respective articles imported being only kept so as to show the amount of duty collected on each article imported into the *whole country*.

To keep an account with respect to the duty collected on each article imported from each country would be a work of great magnitude. It has therefore been found necessary to estimate the amounts of duty received on the gross imports of fish of the various kinds imported from the above-named provinces. A portion of this imported fish is subsequently exported, but it is believed that the amount is inconsiderable.

AS TO DUTIES COLLECTED ON FRESH FISH.

(3) I am asked to discriminate in the statements furnished between the amounts of duty collected on fish fresh and fish not fresh. Since 1861 fresh fish imported for daily consumption has been free of duty. Just prior to that date it was dutiable at the rate of 15 per cent. ad valorem, but the records of the imports of fish prior to 1861 do not distinguish between the fresh and cured.

AS TO THE RECORDS OF IMPORTS BY CUSTOMS DISTRICTS.

(4) Inasmuch as the accounts of imports distinguish only as to the aggregate value of all imports brought into each district in American and foreign vessels, respectively, and not as to the value of the respective articles brought in American and in foreign vessels, the information as to the duty collected on fish imported in foreign vessels cannot be given.

STATEMENTS SUBMITTED.

(1) Table A shows the estimated amount of duty collected on imports of fish into the United States from the British North American Possessions during each year from 1850 to 1886, except when the reciprocity treaties of 1854 and 1873 were in force.

(2) Table B shows, by customs districts, the estimated amounts of duty collected on imports of fish into the United States from the British North American Possessions, other than British Columbia, during the year ending June 30, 1886.

REMARKS ON TABLES.

During the period of the reciprocity treaties, there being no duties collected on fish imported from the British North American Possessions, those years do not appear in the tables.

Probably a small portion of the herring and all of the sardines and anchovies should not be included in the tables, as a small portion of the former and perhaps all of the latter come from Europe through the British North American Possessions, but the amounts of duty collected thereon are inconsiderable, and would not materially affect any deductions drawn from the tables.

INFORMATION ASKED FOR NOT FURNISHED.

With respect to your inquiry as to the duty collected on imports into each port, Table B contains all the information that I can furnish at the present time. This information for prior years not being in printed form, it is necessary to compile it from the manuscript records, which is a tedious process. The information cannot be given from 1850 to 1855. Such of the records as antedate the organization of this Bureau in 1866, are incomplete, having been kept in a careless manner and allowed in great part to go to destruction.

To collate similar information to that in Table B, from the manuscript records, for the period from 1866 to 1873, will require the work of several clerks for two or three weeks, as only those skilled in the accounts can work upon them. Possibly, however, the information here furnished may be deemed sufficient. If it is still desired the information similar to that in Table B be compiled for the years from 1866 to 1873, I will undertake the work and perform it as best I may with the limited clerical force I have fitted for the work.

The calls upon me from Senators and Representatives in Congress in regard to the tariff and other commercial subjects are very numerous and pressing at the present

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A.—Statement
United States
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Year ending June 30—

Herring, pickled.

1850..	\$1,142 8
1851..	8,095 2
1852..	11,991 2
1853..	22,031 4
1854..	20,257 4
1855..	20,308 2

1860..	2,070 00
1861..	97,505 00
1862..	54,301 00
1863..	.....
1864..	.....
1865..	84,200 00
1866..	53,354 00

1867..	51,263 00
Total	\$23,884 20

time, when they are entering upon a tariff debate. In order to answer these calls it is necessary not only to keep up the current work of this office, but also to devote a large amount of labor to the preparation of the information asked for, all of which taxes my force to its utmost capacity.

Very respectfully,

WM. F. SWITZLER,
Chief of Bureau.

A.—Statement showing the estimated amount of duty collected on imports of fish into the United States from the British North American Possessions during each year from 1850 to 1886, except when the reciprocity treaties of 1854 and 1873 ratified between Great Britain and the United States were in force.

FISH, DRIED, SMOKED, PICKLED, ETC.									
Year ending June 30.	Herring, pickled.	Mackerel.	Salmon, pickled.	OTHER.		Anchovies and sardines, packed in oil or otherwise.	All other, not elsewhere specified.	Fish of all kinds.	Total duty.
				Pickled, in barrels.	Not in barrels, sold by weight.				
1850..	\$3,143 80	\$67,061 80	\$16,094 00	\$7,438 80	\$3,985 20	.....	.....	.....	\$106,532 60
1851..	8,693 20	109,698 60	17,117 40	12,479 00	4,860 00	.....	.....	.....	152,850 80
1852..	11,991 20	65,522 60	19,305 20	8,478 20	10,954 60	.....	.....	.....	110,251 80
1853..	22,831 40	65,843 20	18,858 40	17,320 80	37,075 80	.....	.....	.....	169,089 60
1854..	26,257 40	94,183 20	18,615 40	22,591 20	17,169 00	.....	.....	.....	178,816 20
1855..	20,308 20	85,451 40	16,570 00	14,533 40	24,470 20	.....	.....	.....	161,432 20

[Treaty of 1854 in force from September 11, 1854, to March 17, 1866.]

Year.	2,070 00	1,062 00	1,464 00	9,588 00	5,255 95	\$328 09	.....	.....	19,762 95
1867..	97,593 20	105,006 00	18,648 00	36,943 00	32,529 71	86 50	.....	.....	340,758 21
1868..	54,301 00	83,310 00	19,539 00	21,282 00	38,940 09	65 00	.....	.....	217,437 09
1869..	.....	.....	.....	.....	.....	.....	.....	\$279,439 25	279,439 25
1870..	.....	.....	.....	.....	.....	.....	.....	292,351 75	292,351 75
1871..	.....	.....	.....	.....	.....	.....	.....	300,293 50	300,293 50
1872..	64,200 00	153,463 00	.....	.....	.....	383 00	\$88,940 25	.....	308,985 25
1873..	53,339 00	179,396 00	.....	.....	.....	1,768 50	137,880 50	.....	372,090 00

[Treaty of 1873 in force from July 1, 1873, to July 1, 1885.]

Year.	51,283 00	101,778 00	9,064 00	.....	95,816 30	442 00	38,604 75	.....	207,028 05
Total	423,884 20	1,163,774 80	156,085 40	150,715 00	276,065 85	3,019 00	263,411 50	872,064 50	3,312,119 25

* Imports from British Columbia excluded.

B.—Statement showing, by customs districts, the estimated amount of duty, collected on imports of fish into the United States from the British North American Possessions, other than British Columbia, during the year ending June 30, 1886.

[Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland, and Labrador]

CUSTOMS DISTRICTS INTO WHICH IM- PORTED.	FISH SUBJECT TO DUTY							
	Herring, pickled.	Mackerel.	Salmon, pickled.	OTHER.		Anchovies and sardines, packed in oil or otherwise.	All other not else-where specified.	Fish of all kinds.*
				Pickled in bar-rels.*	Not in barrels, sold by weight.			
<i>Atlantic ports (and Chicago).</i>								
New York, N. Y.	\$10,477	\$25,124	\$4,298		\$22,170 00		\$3,515 75	\$45,584 75
Boston and Charlestown, Mass.	25,777	65,124	3,556		88,800 80		4,092 75	137,550 85
Philadelphia, Pa.	45				1,768 74			1,758 74
Baltimore, Md.		20	30		70 45		7 50	120 95
Aroostook, Me.	114	3			1,046 37		2,359 25	10,965 44
Bangor, Me.	4	7,290	208		1,232 00			1,236 00
Barnstable, Mass.					800 29	\$434 40		3,450 69
Chicago, Ill.	1,732	906			11,307 30			11,207 30
Gloster, Mass.					9 52			9 52
Machias, Me.							1 00	1 00
Marblehead, Mass.	2						14 00	14 00
Newark, N. J.								
Newburyport, Mass.								
Pasamaguddy, Me.	796	2,436	130		15,346 75		3,139 25	21,568 75
Portland and Falmouth, Me.	1,615				4,317 35			5,932 35
Portsmouth, N. H.					2 00			2 00
Richmond, Va.	2,485							2,485 00
Saint John's, Fla.							6 75	6 75
Stonington, Conn.					4 18		1 50	5 68
Waldoborough, Me.							75	75
Total	49,047	101,000	8,080		55,055 75	434 40	14,035 50	202,534 75

[Quebec, Ontario, Manitoba, and the Northwest Territory.]

Northern border ports (except Chicago).....	8,216	686	782		160 55	7 60	24,626 25	34,478 40
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* Included in other classes.

APPENDIX D.

Tonnage of American fishing vessels over twenty tons, other than whale

Period.	Year.	Tonnage.	Average for period.
Five years prior to treaty of 1854	1850	113,758	150,810
	1851	138,015	
	1852	175,205	
	1853	159,840	
	1854	137,235	
		754,053	
Twelve years embracing term of reciprocity treaty of 1854	1855	124,553	142,177
	1856	125,703	
	1857	132,901	
	1858	140,490	
	1859	147,647	
	1860	153,019	
	1861	182,106	
	1862	203,450	
	1863	157,579	
	1864	148,244	
	1865	100,436	
	1866	89,366	
		1,706,123	
Ten years between reciprocity treaty and treaty of Washington	1867	98,207	72,730
	1868	74,763	
	1869	55,165	
	1870	82,612	
	1871	82,902	
		363,649	
Fourteen years embracing term of treaty of Washington	1872	87,409	74,689
	1873	90,542	
	1874	68,490	
	1875	98,703	
	1876	77,314	
	1877	73,678	
	1878	71,560	
	1879	66,543	
	1880	64,935	
	1881	66,365	
	1882	67,014	
	1883	84,322	
	1884	73,609	
	1885	73,975	
		1,048,453	
	1886	70,437	70,437

APPENDIX E.

No. 1.

[Circular.—Statistics of the Fisheries.—See Circular 177 of 1885.]

1886.
Department No. 63, }
Bureau of Navigation.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., May 28, 1886.

To the collectors of customs and others:

It is represented to this Department by the Hon. Spencer F. Baird, Commissioner of Fish and Fisheries, that, in view of the questions arising as to the shaping and negotiating of a new fishery treaty with Great Britain, affecting colonial waters in North America, and for other reasons, it is desirable to have at hand, available for reference, full and accurate information regarding our fisheries.

A large percentage of the product of the fisheries of the United States is taken by vessels licensed for the fisheries, or the coasting trade, and the owner or master in each case is thoroughly informed relative to the movements of the vessel and the quantity of fish, shell-fish, and other products obtained.

It is, therefore, directed that whenever the owner, master, or agent of any vessel of over five tons burden, engaged in the capture or transportation of any kind of fish, shell-fish, crustacea, or other products of the seas, rivers, or lakes, shall present himself at the custom-house for the purpose of obtaining or renewing his marine papers, the collector or his deputy will question him regarding the information required by the blank appended hereto, and will fill out the blank for the details thus obtained and certify that it is correct. The statistics should include the period covered by the papers about to be surrendered.

On the first day of each month the collector will forward by mail all such blanks filled out during the preceding month, addressed to "The Commissioner of Fish and Fisheries, Washington, D. C."

Such additional copies of this circular as may be necessary for your use will be furnished by the Bureau of Navigation on requisition.

C. S. FAIRCHILD,
Acting Secretary.

TREASURY DEPARTMENT.

Statistics of the vessel fisheries of the United States, furnished by _____, collector of customs for the port of _____. Date of record, _____.

Name of vessel, _____; rig, _____; net tonnage, _____.

Present value of vessel, \$ _____; value of apparatus and outfit, \$ _____.

Hailing port, _____; fishing port, _____.

Period covered by papers about to be surrendered or renewed began _____, 188____, and ended _____, 188____.

Name of owner or agent, _____; P. O. address, _____.

Name of master, _____; P. O. address, _____.

Number of persons on vessel, as follows: American subjects (white), _____; American subjects (colored), _____; British provincials, _____; other foreigners, _____; total, _____.

Name separately all fisheries engaged in during period covered by papers mentioned above. _____.

Where fishing, and on what grounds. _____.

Kinds of apparatus used. _____.

Date of starting on first trip. _____.

Date of return from last trip. _____.

Total number of trips made. _____.

How long idle during period covered by last papers. _____.

Quantity of fish or other products taken during period covered by last papers, as follows:

Pounds sold fresh: Mackerel, _____; cod, _____; halibut, _____; herring, _____; haddock, _____; white-fish, _____; lake trout, _____; menhaden (bbls.), _____; other fish (specifying kinds and qualities), _____.

Pounds dry-salted or split for salting: Cod, _____; hake, _____; haddock, _____; pollack, _____; other fish (specifying kinds and qualities), _____.

Barrels brine-salted (sea-packed): mackerel _____; sea-herring, _____; white-fish, _____; lake trout (4 bbls.), _____; lake herring (4 bbls.), _____; other fish, _____.

Bushels of shell-fish: Oysters taken, _____; oysters transported only, _____; clams taken, _____; clams transported only, _____; scallops, _____; other shell-fish, _____.

Number of lobsters: Lobsters taken, _____; lobsters transported, only _____.

Gallons of oil (specify kind and quantity), _____.

Miscellaneous products: Seal-skins, _____; sponges, _____; other products (specify kind and quantity), _____.

Total value of fish and other products taken, before deducting any expenses, \$ _____.

Disposition made of fish or other products (where landed), _____.

Estimate of pounds of above-named fish taken within three miles of the mainland or islands, as follows:

Mackerel, _____; cod, _____; hake, _____; haddock, _____; pollack, _____; herring, _____; menhaden (bbls.), _____; other fish, _____.

Total value of fish taken within three miles of the mainland or islands, \$ _____.

Has the vessel entered foreign waters for any purpose whatever during the above period? If so, please answer fully the questions on the following page; if not, they may be neglected.

Statistics of American fishing vessels entering foreign waters, especially those of Canada, Newfoundland, Iceland, or Greenland.

Name of vessel, _____; rig, _____; net tonnage, _____.

Number of weeks actually fishing in foreign waters, _____.

Where fishing, and on what grounds, _____.

Kind of apparatus used, _____.

Total quantity of fish or other products taken in foreign waters, as follows:

Pounds sold fresh: Mackerel, _____; herring, _____; cod, _____; halibut, _____; white-fish, _____; lake trout, _____; other fish, _____.

Pounds dry-salted: Cod, _____; hake, _____; haddock, _____; halibut, _____; other fish, _____.

Barrels brine-salted (sea-packed): Mackerel, _____; sea-herring, _____; white-fish (4-bbls.), _____; lake trout (4-bbls.), _____; lake herring (4-bbls.), _____; other fish, _____.

Other products (state kind and quantity), _____.

State fully the quantity of each kind taken within three miles of any land, and locality where taken, _____.

Total value of fish taken in foreign waters, \$ _____.

Value of portion taken within three miles of land, \$ _____.

Money paid to foreign merchants for ice, \$ _____; bait, \$ _____; supplies, \$ _____; gear, \$ _____; other expenditures and repairs, \$ _____.

Number of times entering foreign ports for shelter, repairs, bait, or supplies during period covered by last papers, _____.

PORT OF _____, 188-.

I certify that the above information was obtained as prescribed by the circular of the Treasury Department dated December 16, 1885.

_____,
Collector of Customs.

No. 2.

[U. S. Commission of Fish and Fisheries. Spencer F. Baird, Commissioner.]

WASHINGTON, D. C., December 29, 1886.

Sir: Referring to your letter of the 16th instant, asking for information regarding the vessel fisheries of New England and of British North America, I take pleasure in forwarding herewith answers to the various questions propounded, with the exception of number five, which asks for the total tonnage of American vessels employed in the North Atlantic fisheries in 1886, the total number of men thereon, and the total

value of their catch. The compilations necessary for intelligent estimates in answer to this question are nearly completed, and the results will be forwarded at the earliest practicable moment.

Very respectfully yours,

SPENCER F. BAIRD,
Commissioner.

Hon. DANIEL MANNING,
Secretary of the Treasury.

No. 3.

Question 1. "What do you estimate to have been the value of the products of the British North American fisheries for 1885?"

The Canadian fisheries in 1885, as shown in detail by the accompanying tables, furnished occasional or continuous employment to 59,493 persons, with 1,177 vessels and 28,472 boats. The value of these, together with that of the other apparatus and capital, including shore property, gives a total of \$6,697,459 employed in the fisheries industries, with a total value of products amounting to \$17,722,973.18. The tables from which the summary is obtained have been compiled from the annual report of the Department of Fisheries, Dominion of Canada, for the year 1885.

In using the figures it should be remembered that the tables include not only the commercial fisheries, but also the persons, apparatus, and capital employed in fishing for local supply; and probably a large number who fish only to furnish food for their own families. This class, owing to the lack of manufacturing interests and the character of the soil, composes in many localities a large part of the population.

Total number of men and total amount of apparatus and capital employed in the shore, boat, and vessel fisheries of the Dominion of Canada during the year 1885.

[Compiled from the Annual Report of the Department of Fisheries of the Dominion of Canada for the year 1885.]

Provinces.	Number of men.	Steam-tugs and sail-vessels		Boats.		Gill-nets.		Pound-nets, traps, and weirs.		Appropriate value of fac- tories, tools, and other ap- paratus and fixtures.	Total amount of capital invested.
		Number.	Tonnage.	Value.	Number.	Value.	Fathoms.	Value.	Number.			Value.
Nova Scotia	29,905	711	31,285	\$1,428,308	12,692	\$316,677	1,475,913	\$568,550	916	\$223,780	\$3,010,000
New Brunswick	10,185	196	3,267	78,836	4,872	147,367	450,738	241,363	222	495,428	1,075,879
Prince Edward Island	3,535	53	2,044	53,980	1,039	187,735	297,598	169,622	1	379,369	493,143
Quebec	11,322	160	8,364	240,973	1,745	156,883	710,630	486,222	2,011	115,878	930,358
Ontario	2,716	33	2,335	43,910	1,145	156,883	710,630	486,222	213	25,114	378,274
British Columbia	1,830	34	2,345	55,600	367	44,185	141,350	130,660	.....	880,830	809,865
Total	59,493	1,177	48,728	2,021,633	38,472	882,257	3,014,384	1,219,284	3,373	2,058,463	6,097,459

Do.	lbs	128,578	14,220	4,100	2,897	17,272	17,272	72,931	2,372,178	178,871	18
Whitefish	lbs	1,491,967	1,112	50,000	1,112	405	405	15,234	1,735,017	164,116	02
Do.	lbs	418,159	25,069	8,850	20,019	57,500	57,500	19,220	618,152	491,507	30
Shad	lbs	58,000	48,577	58,000	48,577	58,000	48,577	58,000	58,000	58,000	00
Do.	lbs	58,000	48,577	58,000	48,577	58,000	48,577	58,000	58,000	58,000	00
Salmon	lbs	30,457	30,457	30,457	30,457	30,457	30,457	30,457	30,457	30,457	00
Sturgeon	lbs	20,240	20,240	20,240	20,240	20,240	20,240	20,240	20,240	20,240	00
Trout	lbs	98,142	98,142	98,142	98,142	98,142	98,142	98,142	98,142	98,142	00
Oil	gals	822,735	822,735	822,735	822,735	822,735	822,735	822,735	822,735	822,735	00
Miscellaneous	gals	3,541,089	3,541,089	3,541,089	3,541,089	3,541,089	3,541,089	3,541,089	3,541,089	3,541,089	00
Secondary products											
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^a Lake herring.

^b Pounds.

^c In British Columbia, 341,100 haddock and whiting, valued at \$12,053, are included with miscellaneous products.

^d In Nova Scotia the hake are included with the haddock.

^e In Prince Edward Island, 16,888 pounds of cod and hake sounds, valued at \$10,977.29, are included with miscellaneous products.

Question 2. "What are the descriptions of the fish—in consequence of the present habits of the fish, the present methods of catching, drying, curing, and preserving—American fishermen desire to take either in the jurisdictional waters of British North America, or in the open sea or open bays near the British colonial possessions?"

Prior to, and during the first half of the present century, many of the New England vessels engaged in the offshore cod fisheries, being of small size, found it desirable to fish in the vicinity of the shore, where they could make a harbor in case of severe storms. Owing to their small tonnage, they found it difficult to carry sufficient quantities of codfish to make a trip to the more distant fishing grounds profitable, and many of them found it desirable to land and dry their fish upon the shores, thus enabling them to bring home a much larger quantity as a result of the voyage. At that time the majority of the fish were exported to Spain and the West Indies, and the methods which our fishermen found it necessary to adopt in drying their fish on the provincial shores made them especially adapted for these markets.

Since 1850 the small vessels engaged in the offshore fisheries have been gradually replaced by larger ones, and thus the privilege of fishing for cod in the vicinity of the shore has become less important, and as the codfish are more abundant on the offshore Banks, twenty to two hundred miles from land, vessels engaged in this fishery now prefer to visit these localities; and they have been doing so, with comparatively few exceptions, for the past fifteen or twenty years. The catch of these vessels, instead of being exported, is now to a great extent consumed in this country, and our market at present calls for fish cured in a different way, so that the privilege of drying and curing fish on Canadian soil, now that the vessels are large enough to readily carry the undried fish, is no longer of any advantage whatever to our fishermen.

Formerly vessels employed in the mackerel fisheries were provided only with hand-lines, and the crews caught the fish from the vessel's deck. When fishing in this way they found it desirable to grind up fish and clams, which they threw in large quantities into the water to attract the mackerel and keep them in the vicinity of the vessel. The best results were then obtained by fishing in shoal water, as the bait thrown overboard could not sink to any great depth, and the entire body of fish were thus kept near the surface, where they were within reach of the hook and line. About 1865 purse-seines were introduced for the capture of mackerel, and in a few years they came to be generally adopted by vessels employed in the mackerel fishery. These are fished to best advantage at some distance from the shore, and the fishermen usually avoid shoal water, as the seines are liable to be ruined when set in depths where the lead-lines may chance to come in contact with the bottom.

During earlier years the halibut fishery in the vicinity of provincial shores was of some slight importance to the American fishermen, but this has been confined wholly to deep water, many miles from land, since 1875.

The shore herring fisheries, and the occasional capture of certain species for bait, were also at one time of value to fishermen from the United States; but such a decided opposition on the part of the resident Provincial fishermen was manifest to the exercise of the privilege of taking fish, accorded by the treaty of Washington, that the practice of catching their own supply was practically abandoned, and the fishermen have almost without exception, since the well-known difficulty at Fortune Bay, Newfoundland, about ten years ago, purchased their cargoes of herring from the local fishermen, and, where these had no suitable apparatus for obtaining same, have carried their own apparatus and hired the provincial fishermen to manipulate it.

The mackerel is, then, the only species of any importance visiting Provincial waters which American fishermen at present desire to catch within three miles of the shore, or indeed within a much greater distance. This is practically the only Provincial shore fishery in which our fishermen have had any considerable interest since the ratification of the treaty of Washington, as the great majority of our vessels employed in other fisheries on the banks off the Provincial coast seldom fish nearer than twenty-five or thirty miles from land, and a majority of them secure their cargoes from one to two hundred miles from shore.

At the present time the advantage to be derived from any privilege of fishing within three miles of the Canadian coasts even for mackerel is comparatively insignificant, as the results of the season which has just closed show conclusively that our vessels which have fished wholly outside of the three-mile limit have done fully as well as the Canadian vessels, which have had the opportunity of fishing everywhere, without restriction as to distance from shore.

Question 3. In the method of fishing on that open sea, or in those open bays, of preserving the catch and sending it to our ports for a market now desirable for our American fishermen, of what importance is the right to enter, in a commercial way, British colonial ports in the neighborhood?

The nature of the occupation of fishing, when the size of the vessel is considered, renders it impossible for a fishing vessel to provide against all contingencies. On leaving the home ports the vessels are ordinarily provided with what is supposed to

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a fall outfit of provisions and apparatus, but a scarcity of fish may render it de-
sirable that it should remain on the fishing-grounds longer than was expected, or it
may be delayed by head winds, storms, or floating ice, until the supply of provisions
or water is exhausted. It then becomes convenient, in order to prevent actual
starving, that the vessel should make a harbor and obtain additional quantities.
Instances have occurred during the present year when vessels short of provisions
attempted to reach one of our own ports to obtain a supply rather than incur
the risk of seizure by entering those of Canada for that purpose.

Again, portions of the vessel's equipment, such as anchors, cables, fishing boats,
and apparatus of capture, are liable to be lost during stormy weather, and it is a great
inconvenience to be able to purchase new material in the nearest provincial port rather
than to incur the loss which must be sustained, provided the vessel is obliged to return
to American markets to purchase same. This is true both in the fisheries carried on
near the land and also in those on the more distant fishing grounds. This season
much inconvenience was experienced by many of the vessels engaged in the mackerel
fishery from the tearing of their seines and the loss of their seine boats in heavy weather,
owing to the refusal of certain Canadian officials to allow them to land their seines for
purposes of repair or to buy new boats for continuing their fishing operations. Many
of them were provided with two boats and some carried two seines to guard against
such contingencies, but in a number of cases vessels so equipped were equally incon-
venient with the others.

The only occasion that vessels would have for entering the harbor, due to the methods
of preserving fish, would be for the purpose of obtaining either salt, barrels or ice. It
sometimes happens that the salt is damaged by a leak in the vessel, or that a deten-
tion beyond the expected time causes the melting of the ice, and it is important that
fishermen should be permitted to purchase additional quantities in Canadian ports,
rather than run the risk of losing the entire cargo of fish or of returning with only a
partial trip. The present interpretation given to the treaty of 1818 by the Canadian
authorities, while it might allow a leaking vessel to enter a port for repairs, would
not allow it to replace the salt that might have been rendered worthless by the leak.

The privilege of landing cargoes of fish at provincial ports for shipment to the
United States is of considerable importance to vessels engaged in the mackerel fishery,
of little value to those employed in the capture of other species. Vessels are
now enabled to land trips for shipment and to immediately resume their fishing
operations, thus saving the two to four weeks necessary for making the homeward
and return passage; but with the privilege of transshipping cargoes should be coupled
that of refitting at the port where the fish are landed, otherwise the vessel might be
short of provisions or apparatus, which would render it impossible for it to continue
its fishing operations.

Most of the vessels from Gloucester, Mass., engaged in the offshore cod fisheries
have made a practice of obtaining fresh bait in provincial ports; but a majority of
vessels similarly employed from other places carry salt bait, thus being entirely in-
dependent of the Canadian supply. The chief difference between the two classes is
that the Gloucester vessels fish with trawls, while the crews of most of the other
vessels catch their fish with hand-lines. It is claimed by certain of the Gloucester
fishermen that they get more and larger fish by the use of fresh bait, but the fishermen
from other ports have found their own methods profitable and have not felt disposed
to follow Gloucester's example even when they had free access to Canadian ports for
the purpose of obtaining bait.

A few of the vessel-owners in Gloucester have long maintained that the time lost
in going to and from Provincial ports to secure bait, and the temporary demoraliza-
tion of the crews resulting from a visit to these ports more than offset any ad-
vantages that are to be derived by the use of fresh bait, and urge that salt bait
would be found, on the whole, more profitable; but as a considerable percentage of
the men employed on the vessels have families or relatives in the Provinces they have
continued to urge upon the owners the necessity of obtaining bait in these localities,
and it has been difficult to dissuade them. After the experience of the present year
quite a number of other Gloucester owners and fishermen as well as are convinced that
it is on the whole better to substitute salt bait than to continue the old practice of
leaving the Banks in the midst of the fishing season to obtain other kinds in the Prov-
inces. That this opinion is shared by the Nova Scotia fishermen is proven by the fact
that for some years they have been in the habit of purchasing large quantities of salt
bait from dealers at Portland and other towns in the State of Maine to be used by
them in the cod-fisheries.

Since the introduction of the purse-seine the mackerel fishermen have required no
bait.

In the halibut fishery it is only necessary to take a sufficient quantity to last one
or two days, as the remainder of the catch can be obtained on refuse fish taken on
the trawls with the halibut, or, if necessary, small halibut can be cut up and used
for baiting the hooks.



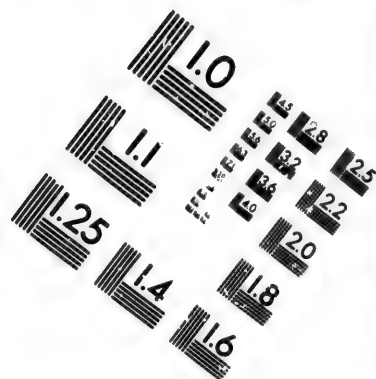
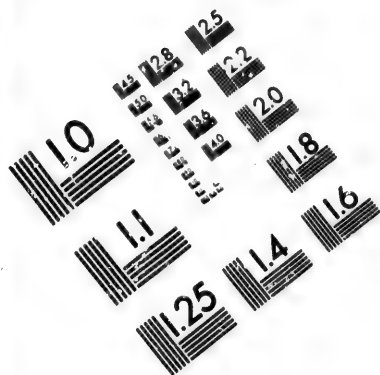
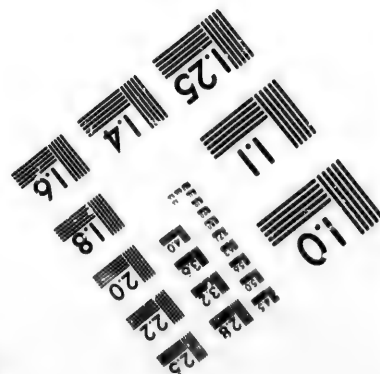
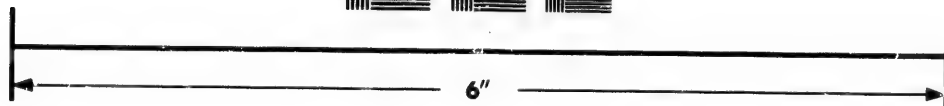
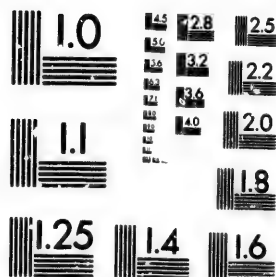


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In the past the cod-fishermen frequenting Georges Banks have at certain seasons of the year obtained their bait from Canadian ports, but the experience of the present year has proven that they are not dependent upon them, as most of the vessels have obtained their supply on our own coast with comparatively little difficulty, and frequently with less loss of time than was customary when visiting localities in New Brunswick and Nova Scotia.

It will thus be seen that, though the privilege of obtaining bait and the ice necessary for preserving it in British North American ports has been in the past and may even still be considered a convenience to certain classes of vessels, it is not of vital importance.

The agitation of the question of bait supply has had a very beneficial influence upon our own fishermen, and has resulted in the development of extensive shore bait fisheries along the coasts of Maine and Massachusetts, which give promise of being able to supply in large part, if not wholly, the demands of our entire fleet. During the past summer the experiment of shipping bait to Boston from the more remote localities on the coast of Maine has been made with success, and the cost of transportation is not high enough to be a barrier to the continuance of the business. If this practice increases, as at present seems probable, it will doubtless result in a great saving of time to our fleet, which has often in the past been seriously inconvenienced in its fishing operations, owing to the time consumed in sailing from port to port in search of a supply. The United States Fish Commission has recently begun a series of experiments with a view to determining the practicability of preserving fresh bait long enough to admit of its shipment from New England ports to the fleet fishing on the more distant banks, but the work is not yet sufficiently advanced to warrant an opinion as to the probable result.

Question 4. "The same question in regard to the fishing on the permitted coasts, and the commercial entry in the prohibited bays and harbors, but not for fishing."

There is at present comparatively little fishing by American vessels on that portion of the coast to which free access is given by the treaty of 1818; but vessels fishing in that vicinity should have the same privileges in other ports as are accorded to other vessels, as it would seem unwise to discriminate, and it would, perhaps, owing to the few settlements of any importance on the permitted coast, be more convenient for the vessels to enter ports in the prohibited districts to purchase the necessary articles than to go out of their way in an opposite direction, where there might be any uncertainty of securing them.

Question 5. "What is your estimate of the total tonnage of the American vessels, the number of fishermen thereon, engaged in the Canadian and North Atlantic fisheries in 1886, and the total value of their catch?"

A careful estimate of the extent and importance of our New England vessel fisheries, indicates that during the present year there have been 1,356 vessels, aggregating 115,130 tons, with crews numbering 17,996 men employed in the various sea fisheries. The fleet is estimated to have been divided as follows: 1,530 vessels in the food-fish fisheries, 215 in the shell-fish and lobster fisheries, 177 in the capture of whales and seals, and 34 in the menhaden fishery.

The 1,530 food-fish vessels aggregated 71,200 tons, and furnished employment to 14,240 men. The vessels, with their equipment, were valued at nearly \$5,000,000, and their catch is estimated to have sold at prices to fishermen for \$4,590,000. Of the fleet 350 sail were engaged in the off-shore mackerel fisheries, 200 in the cod fisheries on Quersan, Grand, and Western Banks, 165 others in the cod fisheries of Georges and Brown's Banks, and the remaining 750 in the miscellaneous shore and off-shore fisheries.

The off-shore mackerel vessels are the only ones that have engaged to any extent in catching fish in the vicinity of waters under British jurisdiction. Of this fleet, about one-half, or possibly a slightly larger percentage, have fished in the Gulf of St. Lawrence during a portion of the mackerel season, the remainder of these vessels having remained off our own coast.

Below are given two tables, showing in detail the extent and character of our New England vessel fisheries in 1886. The figures as there explained are estimated from partial statistics furnished by collectors of customs on Treasury circular No. 63, Bureau of Navigation, and from special, but as yet unfinished, investigation by the United States Fish Commission. The statement in both tables are therefore subject to revision; but, as due allowance has been made for the statistics not yet received, it is believed the totals will not be materially changed by the final compilations.

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Table estimating by fisheries the total number, tonnage, and value of New England vessels employed in the North Atlantic food-fish fisheries in 1886, with the number of men and value of apparatus and outfit on same, and the total value of their catch.

[These estimates are based upon partial returns from collectors of customs on Treasury Circular No. 63, current series, and upon special investigations by the United States Fish Commission.]

Fisheries.	Number.	Tonnage.	Value.	Value of apparatus and outfit.	Number of men.	Value of catch.
Offshore mackerel fisheries	350	30,000	\$1,325,000	\$520,000	5,500	\$875,000
Codfisheries on Quereau, Grand, and Western Banks	200	16,500	765,000	330,000	2,800	990,000
Codfisheries on George's and Brown's Banks	165	10,000	640,000	200,000	2,000	850,000
Offshore halibut fisheries	65	5,000	470,000	110,000	900	750,000
Miscellaneous shore and offshore fisheries	750	9,700	430,000	260,000	3,040	1,125,000
Total	1,530	71,200	3,580,000	1,420,000	14,240	4,580,000

Table estimating by fisheries the total number, tonnage, and value of New England vessels, with the number of men thereon, employed in the various fisheries in 1886.

[Based upon partial returns from collectors of customs on Treasury Circular No. 63, current series, and information obtained from other sources.]

State	Total.				Food-fish.				Lobster and shellfish.				Whale and seal.				Menhaden.			
	Number.	Tonnage.	Value.	No. of men.	Number.	Tonnage.	Value.	No. of men.	Number.	Tonnage.	Value.	No. of men.	Number.	Tonnage.	Value.	No. of men.	Number.	Tonnage.	Value.	No. of men.
Maine	537	18,350	\$940,000	3,720	525	18,000	\$900,000	3,000	40	750	\$30,000	100	100	100,000	20	20	100	100,000	20	20
New Hampshire	20	600	30,000	120	20	600	30,000	120	15	800	8,000	40	100	38,000	1,500,000	2,500	100	38,000	1,500,000	2,500
Massachusetts	1,625	86,850	4,008,000	12,540	850	50,000	2,500,000	10,000	15	800	8,000	40	100	38,000	1,500,000	2,500	100	38,000	1,500,000	2,500
Rhode Island	64	1,460	188,000	336	35	400	20,000	80	10	100	7,000	25	100	38,000	1,500,000	2,500	100	38,000	1,500,000	2,500
Connecticut	280	7,570	476,550	1,220	100	2,200	110,000	440	150	2,600	200,000	400	15	2,000	100,000	240	15	2,000	100,000	240
Total	1,956	115,130	5,642,550	17,996	1,530	71,200	3,560,000	14,240	215	4,300	245,000	505	177	88,100	1,610,000	2,700	34	1,630	227,550	431

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Question 6. "What change has, in your view, come to American fisheries since the last full year of the Washington treaty in regard the character, quantity, and general features of that industry?"

There has been little change in the fisheries other than the mackerel fishery during the past year. In this fishery the scarcity of mackerel has been very marked and the catch has been much below that of the average year. The decrease, however, can be in no way attributed to the abrogation of the treaty of Washington, but must rather be accounted for by natural causes which have affected the abundance, movements, and locality of the species.

For several years prior to 1886 mackerel appeared in more than average quantities, and for eight or ten years, ending with 1885, they have been much more plentiful on our own coast than on any portion of that of British North America. For this reason the fleet of American mackerel vessels visiting waters in the vicinity of British territory has of late been very small. In 1885, out of a total of about 380,000 barrels caught by our fleet, only 26,000 barrels, or less than seven per cent., were taken in the vicinity of Canada, the quantity obtained within the three-mile limit being only 3,564 barrels. The fact that, during a season when permission had been given to allow American vessels to fish anywhere in the waters of British North America without restriction as to distance from shore, less than one per cent. of the catch of our mackerel fleet was secured within three miles of British territory, and that more than ninety-three per cent. of the total catch of mackerel was obtained in the vicinity of our own coast, is certainly significant.

During the present year mackerel have been peculiarly scarce in all localities, though for the first time in eight or ten years they have been more abundant in the Gulf of St. Lawrence than off the New England coast, and a large percentage of the American vessels employed in the fishery have visited that locality. The catch has, as a rule, been unusually small, but the price has increased in proportion, so that the season for some of the vessels has not been wholly unprofitable. The limited catch cannot in any way be accounted for by the restrictions placed upon our vessels within the three-mile limit, for their catch, as previously stated, has been equal to that of the Canadian vessels that fished without restriction as to distance from the shore.

The vessels engaged in the cod-fishery have met with more than average success. This is partially attributed to the fact that the squid, used for bait, have been very plenty during the summer and fall months on the fishing grounds. It has not unfrequently occurred that vessels have sailed without any bait, depending upon the supply that they could catch on the Banks upwards of a hundred miles from shore.

Question 7. "Your Commission has, in its annual reports, alluded to the diminished necessity on the part of American fishermen to go to British North American ports or waters for bait. What are the new features of that necessity?"

A few years ago the United States Fish Commission obtained from Norway a number of gill-nets suitable for catching codfish, and used them with success in the cod fisheries about Gloucester, Mass. Similar nets are now made in this country, and are extensively employed by the shore cod-fishermen of that vicinity, who obtain large catches by their use. These fishermen formerly depended in large part for their bait upon frozen herring, brought from New Brunswick and Newfoundland, but where gill-nets are used bait is no longer required. Thus far, however, gill-nets have not been extensively employed in the capture of codfish on the more distant fishing Banks.

The development of our shore bait fisheries, referred to in answer to a previous question, also renders our people less dependent upon the Provincial supply, and the growing sentiment upon the part of certain Gloucester owners in favor of substituting salt clams purchased in American markets for fresh bait obtained in the Provinces, seems destined to decrease still further our dependence upon the Canadian supply. It cannot be denied, however, that there are still a large number of vessels that would consider it a convenience to obtain bait in the Provinces, provided commercial privileges, under proper restrictions, are accorded to our vessels.

Question 8. "Your Commission has also alluded to inquiries presented by it in respect to the general value of the inshore Canadian waters to American fishermen, and the yearly value of the liberties given to American fishermen by the Washington treaty. Have you ascertained new facts of public interest in that regard which you can conveniently communicate to me?"

The decreased importance to American vessels of the inshore Canadian fisheries has resulted—

(1) From the increased size of our vessels, which did away with the necessity of fishing close to land, where harbor could be made in case of storms, and of landing in the vicinity of the fishing grounds to dry their fish before sailing for home;

(2) From the substitution of the purse-seine for the hand-lines in the capture of mackerel, which has necessitated the fishing in deeper water and at a greater distance from shore; and

(3) From the change in the location of the mackerel fisheries, which has for the last few years enabled our vessels to obtain full cargoes in the vicinity of our own

coast, instead of going to the Gulf of St. Lawrence, where they formerly met with better success, but where of late years—prior to the present season—they have found fishing unsatisfactory.

This recent return of the mackerel to the more northern waters should, however, not be considered as indicating a permanent change in the location of the fishery, for within a short time, and possibly next season, they may again appear in greater abundance on our own coast; and, indeed, the study of the movements of other fishes renders it not wholly improbable that mackerel may at no distant day disappear entirely from the Gulf of St. Lawrence and from other portions of the Provincial shores, where they are now abundant.

No. 4.

J. R. L.]

TREASURY DEPARTMENT, December 30, 1886.

SIR: In reply to your request of the 28th instant, in which you desire to be informed of "the value of merchandise sent during the last fiscal year in bond—(1) through any port of the United States to the British North American Provinces; (2) of merchandise sent in bond from one of our ports to another over territory of the British North American Provinces; or (3) sent in bond through any of those Provinces to the United States," I have the honor to report:

(1) That the statistics, compiled for the last fiscal year, show the transit of dutiable merchandise to British North American Provinces amounting in value to..... \$18,556,763
And also of non-dutiable merchandise amounting to..... 1,684,316

Making a total of 20,241,079

This represents merchandise arriving at United States seaports *en route* to Canada, and also merchandise arriving at frontier ports for shipment across the territory of the United States to other frontier ports.

The report of the Bureau of Statistics shows \$20,241,079 worth of "transit" merchandise shipped to British American Provinces, and besides \$10,861,020 worth of "in transit" merchandise received from the British American Provinces. What proportion of the latter amount was simply transported across United States territory to another Canadian port does not appear. It is probable, though, that the greater portion of it was transported to our seaports for shipment to foreign countries.

In reply to your second and third questions, I have to state that in the absence of any data to be found in the records of the Department the annexed telegram was sent to the collectors at the various frontier ports therein named, and from their replies it appears that no sufficient records of such matters have been kept to enable them to give satisfactory reports in all cases.

The collectors at Portland and Suspension Bridge alone give any values in response to the second interrogatory (viz, \$960,234 at Portland, and \$1,414 at Suspension Bridge), while the collectors at Suspension Bridge and Burlington are the only ones failing to report as to the third question, the others reporting as follows:

Plattsburg	\$37,498
Portland	1,859
Detroit	175,626
Buffalo	47
Port Huron	1,194,000
Total	1,408,590

I may state, however, in explanation of the incompleteness of these reports, that under the regulations of the Department, merchandise of domestic origin, and imported merchandise in bond in transit from one port in the United States to another by bonded routes through the Dominion of Canada, are allowed to go forward in sealed cars without special bond or any record of values being kept, and on arrival at the second port, if the seals are found intact and the provisions of the regulations in other respects have been duly complied with, are permitted to go forward to final destination without hindrance, no record of values being deemed necessary at the port or any further formality than the due inspection of the seals and comparison of the contents of the cars with the manifests.

Respecting merchandise covered by your third inquiry, that is, sent in bond through any of the British Provinces to the United States, it would appear that the customs officials at the frontier ports can have but little means of ascertaining how the mer-

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chandise passed through the foreign territory; their duties commencing with the arrival of the goods at their several ports. I suggest, therefore, that their telegraphic replies, made at such short notice, be accepted with caution, although no reason is known at this time for doubting their accuracy.

Very respectfully,

J. G. MACGREGOR,
Chief Customs Division.

The SECRETARY OF THE TREASURY.

No. 5.

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
Washington, D. C., January 7, 1887.

Hon. DANIEL MANNING,
Secretary of the Treasury.

SIR: In reply to yours of the 28th ultimo, I have the honor to forward to you tables showing the quantities and values of foreign-caught fish imported into the United States from the British North American Possessions, other than British Colombia; also showing the quantities and values of the fish brought into each port of the United States in American and foreign vessels, respectively.

Table No. 1 shows such imports of fish in American vessels and in foreign vessels, respectively.

Table No. 2 shows the aggregate imports of each kind of fish brought by all means of transportation, to-wit: in American vessels, in foreign vessels, and in cars.

From these tables it appears that the value of fish imported into the United States from the British North American possessions, other than British Colombia, was as follows:

In foreign vessels:	
Into northern border districts	\$89,654
Into Atlantic districts	1,093,820
Total in foreign vessels	<u>1,183,474</u>
In American vessels:	
Into northern border districts	135,481
Into Atlantic districts	353,210
Total in American vessels	<u>508,691</u>
Total in American and foreign vessels	1,692,165
Brought in cars	482,577
Grand total	<u>2,174,742</u>

Very respectfully,

WM. F. SWITZLER,
Chief of Bureau.

No. 1.—Statement showing the quantities and values of fish imported into the United States and American Vessels, respectively.

IMPORTED IN FOREIGN VESSELS.

Customs districts.	FREE OF DUTY.						
	Fresh.				Lobsters, canned or preserved.	All other.	Total free of duty.
	Salmon.		All other.				
	Pounds.	Dollars.	Pounds.	Dollars.	Dollars.	Dollars.	Dollars.
NORTHERN BORDER DISTRICTS.							
Cape Vincent, N. Y.			1,073,400	42,906			42,906
Chicago, Ill.							
Detroit, Mich.			19,715	280			280
Duluth, Minn.			530,000	1,352			1,352
Genesee, N. Y.			140,055	6,950			6,950
Huron, Mich.			118,095	2,081	1,650		4,631
Miami, Ohio							
Michigan, Mich.			230,598	5,298			5,298
Oswegatchie, N. Y.							
Oswego, N. Y.			500	20			20
Superior, Mich.			118,500	2,900			2,900
Total			1,741,663	61,756	1,650		63,406
ATLANTIC DISTRICTS.							
Baltimore, Md.							
Barnstable, Mass.							
Boston and Charlestown, Mass.	44,555	0,936	943,011	16,989	20,809	20,472	60,240
Gloucester, Mass.			398,000	2,614			2,614
Machias, Me.			1,200	50			50
Marblehead, Mass.							
Newburyport, Mass.							
New York, N. Y.	100	10	703,090	10,232	64,011	2,247	76,496
Passamaquoddy, Me.	733,842	72,590	600,354	14,928	14,147	2,754	104,410
Philadelphia, Pa.							
Portland and Falmouth, Me.					97,847	3,804	101,651
Portsmouth, N. H.			40,000	480			480
Richmond, Va.							
Waldoboro', Me.			8,518	103		1,030	1,130
Newark, Salem, Saint Johns, and Belfast.						200	200
Total	778,597	79,536	2,795,182	45,896	202,814	39,506	367,256
Aggregate	778,597	79,536	4,536,845	107,152	204,464	39,506	430,658

IMPORTED IN AMERICAN VESSELS.

NORTHERN BORDER DISTRICTS.							
Chicago, Ill.			160,821	1,841			1,841
Cuyahoga, Ohio			1,817,366	48,130			48,130
Detroit, Mich.			240,730	6,766			6,766
Duluth, Minn.			78,600	1,898			1,898
Huron, Mich.			43,686	1,473			1,473
Oswegatchie, N. Y.			26,500	1,467			1,467
Oswego, N. Y.			992,881	24,025			24,025
Superior, Mich.			2,116,000	19,392			19,392
Sandusky, Ohio							
Total			5,485,584	104,962			104,962
ATLANTIC DISTRICTS.							
Baltimore, Md.							
Boston and Charlestown, Mass.	76,400	6,903	293,474	6,831	113,589	21,603	148,917
Gloucester, Mass.			115,000	5,818			5,818
Machias, Me.							
New York, N. Y.			75,000	1,100	10,557		11,657
Portland and Falmouth, Me.			70,150	1,127			1,127
Passamaquoddy, Me.	104,848	10,370	80,622	2,132	2,021	393	14,916
Philadelphia, Pa.			100,000	755			755
Total	181,248	17,273	742,246	17,763	132,158	21,996	189,148
Aggregate	181,248	17,273	6,227,830	122,725	132,158	21,996	284,158
Total foreign and American vessels	959,845	90,809	10,764,675	229,877	336,622	61,502	724,610

from the British North American Possessions, other than British Columbia, in Foreign
during the year ending June 30, 1886.

DUTABLE.

IMPORTED IN AMERICAN VESSELS.

[illegible]

No. 2.—Statement showing the quantities and values of foreign fish imported into the United States the year ending June 30, 1900.

Customs districts.	FREE OF DUTY.							
	Fresh fish.				Lobsters, canned or preserved.	All other.	Total free of duty.	
	Salmon.		All other.					
	Pounds.	Dolls.	Pounds.	Dolls.	Dolls.	Dolls.	Dolls.	
NORTHERN BORDER DISTRICTS.								
Aroostook, Me.	1,711	177	24,800	178			355	
Buffalo Creek, N. Y.			3,903,533	128,379			128,379	
Cape Vincent, N. Y.			1,063,400	42,960			42,960	
Champlain, N. Y.	276,871	28,128	320,781	18,127			46,255	
Chicago, Ill.					1,887		1,887	
Cuyahoga, Ohio	19,800	198	150,011	1,643			1,841	
Detroit, Mich.			1,902,089	65,011	180		53,191	
Duluth, Mich.			279,728	8,118			8,118	
Genesee, N. Y.			147,295	5,950			5,950	
Huron, Mich.			252,018	9,427	1,650		8,077	
Miami, Ohio			2,151	98			98	
Michigan, Mich.			230,598	5,238			5,238	
Minnesota, Minn.			449,083	15,404			15,404	
Niagara, N. Y.			147,850	5,911			5,911	
Oswegatchie, N. Y.			43,686	1,473			1,473	
Oswego, N. Y.			30,905	1,487			1,487	
Sandusky, Ohio			2,115,999	10,391			10,391	
Superior, Mich.			1,111,081	26,924			26,924	
Vermont, Vt.	7,016	890	127,411	10,335	67		11,292	
Total	905,398	20,893	12,808,419	853,123	3,784		880,300	
ATLANTIC DISTRICTS.								
Baltimore, Md.								
Bangor, Me.	157,476	18,587	3,583,540	108,660	226	167	127,616	
Barnstable, Mass.								
Belfast, Me.						300	300	
Boston and Charlestown, Mass.	120,956	13,839	1,238,485	23,820	140,388	51,078	229,123	
Gloucester, Mass.			915,030	9,241			9,241	
Machias, Me.			1,200	50			50	
Marblehead, Mass.								
Newark, N. J.								
Newburyport, Mass.								
New York, N. Y.	100	10	778,099	11,332	80,568	2,243	94,133	
Pasamaquoddy, Me.	838,790	82,060	692,976	17,060	16,168	3,147	119,335	
Philadelphia, Pa.			100,000	755			755	
Portland and Falmouth, Me.			70,150	1,127	97,847	3,804	102,778	
Portsmouth, N. H.			40,000	480			480	
Richmond, Va.								
Salem and Beverly, Mass.								
Saint John's, Fla.								
Waldoboro', Me.			3,518	103		1,033	1,136	
Total	1,117,322	115,396	7,423,018	172,628	335,198	61,609	684,801	
Aggregate.	1,422,720	144,789	19,731,437	525,751	338,982	61,609	1,071,199	

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TREASURY

States from the British North American Possessions, other than British Columbia, during June 30, 1886.

WILLIAM F. SWITZLER,
Chief of Bureau.

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
 January 7, 1886.

REPORT OF THE COMMITTEE ON FOREIGN RELATIONS IN
RELATION TO THE RIGHTS AND INTERESTS OF AMERICAN FISHERIES AND FISHERMEN.

JANUARY 19, 1887.—Ordered to be printed.

Mr. EDMUNDS, from the Committee on Foreign Relations, submitted the following

REPORT:

[To accompany bill S. 3173.]

The Committee on Foreign Relations was at the last session of the Senate instructed to make inquiry into the matter of the rights and interests of the American fisheries and fishermen by resolution in the following words:

Resolved, That the Committee on Foreign Relations be, and it hereby is, instructed to inquire into the rights of American fishing vessels and merchant vessels within the North American possessions of the Queen of Great Britain, and whether any rights of such vessels have been violated, and if so, to what extent; that said committee report upon the subject, and report whether any and what steps are necessary to be taken by Congress to insure the protection and vindication of the rights of citizens of the United States in the premises; that said committee have power to send for persons and papers, to employ a stenographer, and to sit during the recess of the Senate, either as a full committee or by any subcommittee thereof, and that any such subcommittee shall for the purposes of such investigation be a committee of the Senate to all intents and purposes.

Resolved, That the necessary expenses of said committee in said investigation be paid out of the appropriation for the miscellaneous items of the contingent fund of the Senate, upon vouchers to be approved by the chairman thereof.

Pursuant to this authority the committee has proceeded to make the inquiries directed by the Senate, so far as it was practicable to do during the vacation, and has taken a considerable amount of testimony which the committee believes to be of much value and importance to a proper understanding of the difficulties that have arisen between citizens of the United States and the authority of Her Majesty's dominions in North America, and which also, as the committee thinks, bears upon other questions of public policy that can be readily understood by those reading this testimony.

The questions touching the right of our citizens engaged either in the operations of fishing or commerce in the North American waters contiguous to Her Majesty's dominions depend, of course, not only upon public law, but upon the conventional arrangements that have hitherto been entered into between the United States and her Britannic Majesty's Government.

Without going into a general review of the discussions that have in former years taken place concerning these matters, it is, as the committee thinks, sufficient to now treat these questions as they are affected by the principles of public law and by the presently existing treaty between the United States and Great Britain bearing upon the subject.

This treaty was concluded in the year 1818. To understand its just and true application it is perhaps proper to refer, by way of inducement, to the state of things theretofore existing.

The treaty of peace concluded at the end of the Revolutionary war, which acknowledged the independence of the United States, provided in its third article that the people of the United States—

shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all the other banks of Newfoundland; also in the Gulf of Saint Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish. And also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, but not to dry or cure the same on that island, and also on the coasts, bays, and creeks of all other of his Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

This article, it will be observed, recognized an existing right and practice in respect of American fishermen exercising their calling not only at sea on the banks of Newfoundland, but in all places in the sea within what would be strictly British waters. And it will be observed also that this treaty said nothing on the subject of commercial intercourse between the people of the United States and those of the British provinces.

The next treaty was that of 1794, by the third article of which it was provided as follows:

It is agreed that it shall at all times be free to His Majesty's subjects and to the citizens of the United States and also to the Indians dwelling on either side of said boundary line [being the land boundary line between the United States and the British Provinces of North America] freely to pass and repass by land or inland navigation, into the respective countries of the two parties, on the continent of America (the country within the limits of the Hudson Bay Company only excepted), and to navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other. But it is understood that this article does not extend to the admission of vessels of the United States into the sea-ports, harbors, bays, or creeks of His Majesty's said territories; nor into such parts of the rivers in His Majesty's said territories as are between the mouth thereof, and the highest port of entry from the sea, except in small vessels trading *bona fide* between Montreal and Quebec, under such regulations as shall be established to prevent the possibility of any frauds in this respect; nor to the admission of British vessels from the sea into the rivers of the United States, beyond the highest ports of entry for foreign vessels from the sea.

A later article in the treaty of 1794 (Article XII) provided that for a limited period, named in the treaty, citizens of the United States might engage in carrying trade to any of His Majesty's islands and ports in the West Indies under certain conditions named. A later article (Article XIII) provided that vessels belonging to citizens of the United States should be admitted into all the sea-ports and harbors of the British territories in the East Indies, &c. A later article (Article XIV) provided that there should be between the dominions of His Majesty in *Europe* and the territories of the United States a reciprocal and perfect liberty of commerce and navigation, &c. Another article (Article XIII) provided for admitting American vessels in distress into all of His Majesty's ports on manifesting its necessity to the satisfaction of the government of the place.

So far as the present question is concerned the foregoing represents the state of the treaty arrangements between the United States and Great Britain down to the close of the war of 1812. By the treaty of

1815, following the treaty of peace of 1814, it was provided in Article I that there should be between the territories of the United States and all the territories or his Britannic Majesty in *Europe* reciprocal liberty of commerce, &c.

In a later article of the same treaty (Article II) it was provided that the intercourse between the United States and His Majesty's possessions in the West Indies and on the continent of North America should not be affected by any of the provisions of that article, but that each party should remain in complete possession of its rights with respect of such intercourse.

No other article of the treaty touched the question of intercourse between the United States and His Majesty's dominions in North America.

The next treaty bearing upon the present question was that of 1818, which is now understood to regulate, so far as it goes, fishing interests of whatever kind of the citizens of the United States in the territorial waters of the British dominions in North America.

All of this treaty that bears directly upon the present subject is contained in Article I, which is in the following words:

Whereas differences have arisen respecting the liberty, claimed by the United States, for the inhabitants thereof, to take, dry and cure fish on certain coasts, bays, harbors and creeks of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands; on the western and northern coast of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company: And that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks, of the southern part of the coast of Newfoundland, above described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of his Britannic Majesty's dominions in America not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

This article sets out with stating the precise subject with which it has to deal, viz: that differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry and cure fish on certain coasts, bays, harbors, and creeks of his Britannic Majesty's dominions in America.

Thus it will be seen that the matter to be dealt with was a claim in favor of the inhabitants of the United States to do certain things within the territorial dominion of His Majesty, and not a matter touching the right of the inhabitants of the United States to cruise, fish, or do any other thing in waters that by the public law of nations did not belong to the territorial jurisdiction of His Majesty. The matter to be dealt with being, then, simply that affecting American fishermen coming within the territorial dominion of His Majesty, it was provided that American might fish on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands; and on the western

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and northern coast of Newfoundland from said Cape Ray to the Quirpon Islands, and on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen should have the liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, above described, and of the coast of Labrador, subject to non-interference with settlers, &c.

And by the same article the United States *renounced* any liberty—

to take, dry, or cure fish or within 3 marine miles of any of the coasts, bays, creeks, or harbors of his Britannic Majesty's dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, and of purchasing wood, and of obtaining water and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them.

The committee is of opinion, in view of this history and of the plain language above quoted, that this article was intended to deal and did deal only with the subject of the admission of American fishermen within the territorial jurisdiction of his Britannic Majesty as defined by the public law of nations.

The first question for consideration, then, is whether the pretension that has been sometimes asserted by the Government of Great Britain, that American fishing vessels or others have no right, except at the pleasure of the British Government, to be in or to prosecute lawful pursuits in the great arms of the sea extending between parts of the mainland belonging to the British and which are more than 6 marine miles broad, is well founded?

The committee cannot doubt that any such pretension is ill founded. It is plain that such a pretension is an invasion of the principles of public law now almost universally recognized by all civilized powers, and one which, it is believed, the British Government would be indisposed to concede to when applied as against its subjects. It would seem to be clear that by the universally recognized public law among civilized nations, territorial jurisdiction of every nation along the sea is limited to 3 marine miles from its coasts as they may happen to be, whether embracing long lines of open coast or embracing great curvatures of sea-shore which may and often do almost surround vast bodies of the waters of the ocean. The phrase of the treaty, therefore, speaking of bays, creeks and harbors of his Britannic Majesty's dominions, must be understood as being such bays, creeks, and harbors as, by the public law of nations, were and are within the territorial jurisdiction of the British Government. The committee is, therefore, clear in its opinion that any pretension that exclusive British jurisdiction exists, either by force of public law or of this treaty, within headlands embracing such great bodies of water and more than 6 marine miles broad, must be quite untenable.

Another question may arise, in respect of whether American fishing vessels or other American vessels may lawfully traverse the Gut of Canso (a narrow strait connecting the waters of the Atlantic on the southeast of Nova Scotia and Cape Breton with the waters of the Gulf of Saint Lawrence on the northwest). This strait is a few miles long, and much less in some of its parts than 3 miles wide. It is naturally

navigable for sea-going vessels, and always has been navigated and used for the passage of vessels from the southward into the Gulf of Saint Lawrence and back again southward by vessels finding it convenient so to use it.

The committee is of opinion that, in the absence of special treaty arrangements, such straits as the Gut of Canso are free for public and peaceable navigation in the same manner that the seas which they connect are. A comparatively recent and notable instance of the application of this principle is found in the case of the Simonoseki Strait, in Japan, connecting the Korean Channel, to the northwest of Japan, with the Pacific Ocean on the southeast. This strait at one of its points is very much less than 3 miles in width; and the passage of mercantile vessels of the United States, Great Britain, France, and the Netherlands having been interrupted there by Japanese batteries, &c., Japan was compelled by these four Governments to make reparation, after both British and American vessels of war had forcibly destroyed the Japanese batteries.

Of course, the right of peaceful passage through the Gut of Canso by unarmed vessels is entirely distinct from any right to fish or do any other thing there than merely to pass through. And if, in such an instance, a purely fishing vessel of the United States, having no other character whatever, should wish to pass through that strait from one part of the sea to another, it is presumed that it would hardly be insisted by the British Government that such a passage for such a purpose was prohibited by the first article of the treaty of 1818, which, as we have before stated, was applicable only to the matter of taking fish, &c., on the specified coasts and to the prohibition of American fishermen as such to enter the British bays or harbors for any other purposes than those of shelter, repairing damages, purchasing wood, and obtaining water. The general right of passage for all vessels entitled to sail the seas was not in any way mentioned, and it must be presumed it was not intended by the language used in the treaty to limit or modify such rights.

On the termination of the reciprocity treaty of 1854 the fishermen of the United States were remitted to the first article of the treaty of 1818, already cited, for the definition and regulation of their rights in the British waters therein mentioned. Between the period of the termination of the treaty of 1854 (namely, 1866,) and the treaty of 1871 some considerable difficulty and discussion took place concerning the question whether the 3-mile line should be ascertained by drawing the same from headland to headland (as across the Bay of Fundy and the Bay Chaleur), or whether it should be drawn 3 miles from the actual shores of such bays and headlands. The general result of those discussions would seem to have been an acquiescence by the British Government in the right of American fishermen to fish within those bays and exterior to a line 3 miles from the shores. By the treaty of 1871 it was agreed that the fishermen of the United States should have the right to fish inshore under certain limitations therein stated. This last treaty was terminated through the action of the United States on the 1st day of July, 1885, and the first article of the treaty of 1818 again came into operation.

Concluding, then, from what has been before stated, that there is no serious difficulty in respect of the question where American fishermen can carry on their operations, it would seem to be easy to know precisely what our fishermen may and may not do in the territorial waters adjacent to the British dominions.

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What they may do may be stated, as follows:

(1) They have the liberty to take fish "on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands."

(2) They have the right to take fish "on the western and northern coast of Newfoundland from the said Cape Ray to the Quirpon Islands."

(3) Also "on the shores of the Magdalen Islands."

(4) "Also on the coasts, bays, harbors, and creeks from Mount Joly on the southern coast of Labrador to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast," subject to any exclusive rights of the Hudson Bay Company.

(5) The right "to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland," before described, and of the coast of Labrador, without interfering with the rights of settlers, &c.

(6) The right of American fishermen in their character as such to enter the bays and harbors of Great Britain in America for the purpose (a) of shelter, (b) of repairing damages, (c) of purchasing wood, (d) of obtaining water, and for no other purpose whatever.

But they are to be under such restrictions in respect of their entry into bays and harbors where they are not entitled to fish "as may be necessary to prevent their taking and drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

The things that by this article American fishermen must not do are:

(1) Fish within 3 miles of any of the shores of the British dominions, excepting those specially above named.

(2) Enter within this 3-mile limit except for the purposes last stated. The American fishermen, in their character as such purely, must not enter the prohibited waters other than for the purposes of shelter, repairing damages, purchasing wood, and obtaining water; and in doing so they are subject to such reasonable restrictions as shall be necessary to prevent their fishing or curing fish in prohibited waters or on prohibited shores, and thereby abusing the privilege of entering those waters for the necessary purposes stated.

What, then, are such necessary restrictions?

Following the treaty of 1818, Great Britain passed the act of June 1, 1819 (59 Geo. III, ch. 38), on the subject of American fishing and other vessels within the waters of the British dominions in North America, which provided:

(1) That the British King might make such orders in council, either directly or through the governor of Newfoundland or others, as should be deemed proper and necessary for carrying into effect the purposes of the fishery article of that treaty.

(2) A prohibition and punishment of fishing, &c., within the 3-mile limit, other than the coasts in respect of which the treaty provided that Americans might fish.

(3) Forfeiture of vessels, &c., found fishing, &c., within the prohibited limits. This forfeiture was to be enforced in the ordinary course, in the case of forfeitures under the revenue laws.

(4) That American fishermen might enter any of the bays and harbors of the British dominions in America for the purposes named in the treaty, subject to such restrictions for preventing abuse of that privilege as His Majesty, or the governor, or person exercising the office of governor in any part of the British dominions in America, might make.

(5) That if any person should refuse to depart from such bays, &c., on the requirement of the governor, &c., or neglect to conform to any of the regulations so made, he should be punished by a fine of £200.

The next legislative act touching American fishermen appears to be the act of Prince Edward's island, of 3d September, 1844, which provided that the officers of Her Majesty's customs, &c., or any person specially holding a commission for that purpose, should have authority to go on board any ship, vessel, or boat, within any port, bay, creek, or harbor, in that island, or "hovering" within three marine miles of any of the coasts, bays, &c., thereof; and in either case freely to stay on board such ship, vessel, or boat as long as she shall remain within such port or distance; and if any such ship, vessel, or boat be bound elsewhere and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for any of the above-enumerated officers, &c., to bring such ship, &c., into port and to search and examine her cargo, and examine the master upon oath touching the cargo and voyage; and if there be any goods on board prohibited to be imported into this island, such ship, &c., and the cargo laden on board thereof shall be forfeited; and if said ship, &c., shall be foreign and not navigated according to the laws of Great Britain and Ireland, and shall have been found fishing, or preparing to fish, or to have been fishing, within such distance of such coasts, bays, creeks, or harbors of this island, such ship, &c., and its cargo shall be forfeited; and if the master or any person in command thereof shall not truly answer the question which shall be demanded of him in such examination, he shall forfeit the sum of £100.

The act then provides for the methods of investigation, condemnation, &c.

The Revised Statutes of Nova Scotia of 1851, chapter 94 (which may have re-enacted some earlier act), provided:

(1) That officers of the colonial revenue, sheriffs, magistrates, or any other person duly commissioned for that purpose, "may go on board any vessel or boat within any harbor in the province, or hovering within 3 marine miles of any of the coasts or harbors thereof, and stay on board so long as she may remain within such place or distance."

(2) That "if such vessel or boat be bound elsewhere, and shall continue within such harbor or so hovering for twenty-four hours after the master shall have been required to depart, any one of the officers above mentioned may bring such vessel or boat into port and search her cargo and also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions demanded of him in the examination he shall forfeit £100; and if there be any prohibited goods on board, then such vessel or boat with the cargo thereof shall be forfeited."

(3) That "if the vessel or boat shall be foreign and not navigated according to the laws of Great Britain and Ireland, and shall have been found fishing, or preparing to fish, or to have been fishing within three marine miles of such coasts or harbors, such vessel or boat, or cargo, shall be forfeited."

It then provides for the method of procedure, &c. This provision was re-enacted in the Revised Statutes of Nova Scotia by the provincial act of May 7, 1858. This re-enactment contained in its twenty-second section of title 25, chapter 94, a provision suspending those parts of the act relating to American fishing vessels during the continuance of the treaty of reciprocity of 1854.

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The committee has not been able to discover any orders in council made by the British King, as authorized by the act (59 Geo. III, ch. 58), and, so far as we have been able to examine, the regulation of the entrance of American fishermen within the limits wherein they were not entitled to fish has been made by colonial statutes such as have been above recited. That of Prince Edward's Island, of 1843 (6 Vict., ch. 14), the committee thinks fairly illustrates the nature of legislative regulations on the subject down to the reciprocity treaty of 1854, and so, in effect, until the expiration of that treaty in 1866. This act provided:

(1) Proper officers were authorized to go and remain on board an American fishing vessel during her continuance within the waters where she was not entitled to fish.

(2) If the vessel was bound elsewhere, and should continue hovering within the 3-mile limit for twenty-four hours after she had been required to depart, then the officer might take her into port, search her cargo, examine the master, &c.

(3) If, on such examination, any goods should be found prohibited to be imported into the island, there should be a forfeiture.

(4) If the vessel should have been found fishing, or preparing to fish, or to have been fishing, in prohibited waters, a forfeiture should follow.

It will be seen that this provision carefully excludes the right to seize and proceed against an American fishing vessel that had come within British waters, where fishing was not allowed, for the purposes named in the treaty, and only authorized British officers to require the vessel to depart, if, instead of coming into a bay or roadstead and coming to anchor, she was "hovering" on the coast and within the prohibited limits, and provided for her forfeiture when so "hovering" only upon its being discovered, on an examination, that she had contraband goods on board, or had been violating the provisions of the treaty by abusing the privilege of her entrance and shelter, by fishing, &c. And in all these cases the ordinary modes of judicial investigation and fair play were provided for, except: (a) That the burden of proof was thrown on the claimant of the vessel in case of dispute as to whether the seizure had been lawful; (b) that no suit should be brought for an illegal seizure until one month after notice in writing had been served on the seizing officer of an intention to sue and the grounds of action; (c) and, further, that a statute of limitations, in respect of all such illegal seizures, of three months only, was provided.

The committee does not see any just ground of criticism of those parts of this act that relate to the conduct of American fishing vessels coming within waters where fishing was prohibited; but when it comes to the matter of just and reasonable judicial determination of any question arising, the committee does think that the methods and limitations of the procedure were harsh and unjust, and beyond the right of the British government to provide, under its authority by the treaty to make only such restrictions as should be necessary to prevent the abuse by the American fishermen of their right to enter non-fishing waters.

But the foregoing species of legislation has been considerably improved upon, in an unjust direction, by the Dominion act of the 22d of May, 1868 (31 Vict., ch. 61), which authorized the officials to require any vessel, which was not hovering on the coast but which had come within a harbor, to depart from such harbor on twenty-four hours' notice, and, on failure of such departure, to bring her into port, for that cause, and without any suspicion or ground of suspicion that she had violated or intended to violate either the treaty or the laws of

Canada, and without any limitation as to the length of time she might be detained in port, or any security for just and fair treatment of the American fishing vessel which might have sought shelter in such harbor or come there for any of the lawful causes named in the treaty.

It also provided for punishing the master if he failed to answer any question put to him touching the cargo or voyage.

It also provided that the consent of the seizing person should be necessary in order to enable the judge of the admiralty court to release the vessel on proper security.

It also, as in the case of the former act, put the burden of proving innocence on the claimant.

It also provided that no suit should be brought for any illegal conduct of those officers until after a month's notice in writing, and that the notice should contain the cause of action.

It also provided that "no evidence of any cause of action shall be produced except such as shall be contained in such notice."

It also provided that every such action should be brought within three months after the cause of action had arisen.

It also provided that if in any such suit judgment should be given against the seizing person and there should be a certificate of probable cause, then the plaintiff should only recover $3\frac{1}{2}$ cents damages and no costs, and that no fine beyond 20 cents should be imposed upon the respondent.

On the 12th of May, 1870, the Dominion act of 33 Vict., ch. 15, was passed, repealing the third section of the last-mentioned act on the subject of bringing vessels into port, &c., and provided in lieu thereof that any of the officers or persons before mentioned might bring any vessel, being within any harbor in Canada, or hovering in British waters within 3 miles of the coast, into port, search her cargo, examine her master on oath, &c., without any previous notice to depart, which had been required by the former act. So that an American vessel, fishing at sea, being driven by stress of weather, want of wood or water, or need of repairing damages, which should run into a Canadian harbor under the right reserved to it by the treaty of 1818, the moment her anchor was dropped or she was within the shelter of a headland was at the discretion of the Canadian official, to be immediately seized and carried into port, which might be, and often would be, many miles from the place where she would have her safe shelter or could obtain her wood and water or repair her damages.

The committee thinks it is not too much to say that such a provision is, in view of the treaty and of the common principles of comity among nations, grossly in violation of rights secured by the treaty and of that friendly conduct of good neighborhood that should exist between civilized nations holding relations such as ought to exist between the United States and Her Majesty's dominions.

This last provision was substantially re-enacted, with the royal approval of the Queen, given on the 26th of November, 1886, with the addition that if any such vessel had entered such waters for any purpose not permitted by treaty or convention, or by any law of the United Kingdom or Canada, for the time being in force, she should be forfeited, &c.

From all this it would seem that it is the deliberate purpose of the British Government to leave it to the individual discretion of each one of the numerous subordinate magistrates, fishery officers, and customs officers of the Dominion of Canada to seize and bring into port any American vessels, whether fishing or other, that he finds within any harbor in Canada or hovering within Canadian waters. The statute does not even except those Canadian waters in which, along a large

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part of the southern coast and the whole of the western coast of Newfoundland, they are entitled to fish, to say nothing of the vast extent of the continental coast of Canada.

The committee repeats its expression of the firm opinion that this legislation is in violation of the treaty of 1818, as it respects American fishing vessels, and in violation of the principles of comity and good neighborhood that ought to exist in respect of commercial intercourse or the coming of the vessels of either, having any commercial character, within, the waters of the other. Had it been intended to harass and embarrass American fishing and other vessels, and to make it impracticable for them to enjoy their treaty and other common rights, such legislation would have been perfectly adapted to that end.

The instances in which this sort of legislation has been applied during the last year, to the great embarrassment and injury of American rights and interests—although in some of them it may doubtless appear that there has been some merely formal or technical violation of some Canadian customs statute or regulation—are the following:

Vessels denied the right or privilege of purchasing coal or ice or of transshipping fish at ports of the Dominion, or refused other rights or privileges therein.

Veracity (steamship) denied the right to take in coal, or purchase ice, or transship fish in bond to the United States, at Pictou, N. S., July, 1886. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 24-25, 49-50-51. This Rep., 3, 15, 105, 106.)

Golden Hind, of Gloucester, Mass., was refused the right to take water in Port Daniel, Bay of Chaleur, July 23, 1886. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 43, 47, 192-193. This Rep., 162.)

Mollie Adams, of Gloucester, Mass., Solomon Jacobs, master; his water supply having become exhausted by accident, Captain Jacobs put into Port Mulgrave, N. S., on the 31st of August, 1886, to replenish the same, but was refused the privilege of buying barrels, and notified that if he did purchase barrels his vessel would be seized. A serious loss was occasioned through this action. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 45-46, 61-63. This Rep., 88, 146.)

R. Crittenden, of Gloucester, Mass., Joseph E. Graham, master. Stopped at Steep Creek, Strait of Canso, July 21, 1886, homeward bound from the open-sea fishing grounds, to obtain supply of water, which was refused, the customs officer notifying Captain Graham that if he took in water his vessel would be seized. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 47, 48, 152. This Rep., 153, 196.)

Muri Nelson, of Provincetown, Mass., Murdock Kemp, master. Was seized in the harbor of Arichat, N. S., September 8, 1886, and compelled to pay commercial fees, but was denied privileges which such fees are paid to secure. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 54-61, 193-197. This Rep., 54, 66.)

Maria Hayward, of Gloucester, Mass., Medo Rose, master. Was, on the 6th of October, 1886, while in the port of Shelburne, N. S., refused permission to buy provisions, &c., sufficient to last the crew on the homeward trip of the vessel; the vessel's papers were retained by the collector for an undue length of time, &c. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 58-59.)

Jeannie Seaverns, of Gloucester, Mass., Joseph Tupper, master. While in the port of Liverpool, N. S., Captain Quigley, of the Dominion cruiser Terror, prevented Captain Tupper from landing to visit relatives in Liverpool, and forbade Captain Tupper's relatives from going on board the Jeannie Seaverns, placing a guard aboard of her while she was in that port. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 58-59, and 60.)

W. H. Farris, of Eastport, Me., W. H. Farris, master. While in Digby Harbor, Nova Scotia, April (1) 18, 1886, was denied the privilege of buying herring. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 169-170.)

A. Garfield, threatened with seizure on opportunity; charged with having purchased bait or ice in Dominion port or ports. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, p. 171.)

Jeremiah Hopkins, of Gloucester, Mass., Jeremiah Hopkins, master. Subjected to constant surveillance in harbor at Shelburne, N. S., by Captain Quigley, of Dominion cruiser Terror, who finally boarded her with an armed guard, took Captain Hopkins ashore under armed guard, and threatened him with trouble if he revisited Shelburne. (This Rep., pp. 135-136, 138.)

Highland Light, of Provincetown, Mass. Seized off the northeast point of Prince Edward Island for catching fish within 3-mile limit. (This Rep., pp. 34, 153.)

Eliza A. Thoms, of Portland, Me., having gone ashore at Malpeque, laden with a cargo of fish, the owners were not permitted to ship home either the fish, boats, or seizures by vessels, but were, after delay, compelled to ship them by rail. (This Rep., pp. 259-260.)

Vessels seized by Canadian authorities on the charge of violating the fishery regulations of the Dominion.

David J. Adams, owned at Newburyport, Mass., Aldon Kinney, master. Seized at Digby, N. S., May 7, 1886. (Senate Ex. Doc. No. 217, Forty-ninth Congress, first session; H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 6, 13, 127, 128, 199, 130, 131, 132, 133, 134, 135, 136, 137, 140, 141, 142, 143, 149, 150, 164, 168, 170, 177, 178 *et seq.* This Rep., p. 151.)

Ella M. Doughty, owned at Kennebunk, Me., Warren A. Doughty, master. Seized at Englishtown, C. B.; May 17, 1886. Released June 19, 1886; bail, \$3,400. Proceedings for remission. (Senate Ex. Doc. No. 217, Forty-ninth Congress, first session; H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 141, 142, 143, 144, 145, 146. This Rep., 255.)

City Point, owned at Booth Bay, Me., Stephen Keene, master. Seized at Shelburne, N. S., July 3, 1886. Released on payment of \$400, alleged fine. (Senate Ex. Doc. No. 217, Forty-ninth Congress, first session; H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 44, 178, 193. This Rep., 238.)

George W. Cushing, owned at Bath, Me., C. B. Jewett, master. Seized at Shelburne, N. S., July 3, 1886. Released on payment of \$400, alleged fine. (Senate Ex. Doc. No. 217, Forty-ninth Congress, first session; H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 142, 178, 182, 184. This Rep., 262.)

C. B. Harrington, owned at Portland, Me., John Freilick, master. Seized at Shelburne, N. S., July 3, 1886. Released on payment of \$400, alleged fine. (Senate Ex. Doc. No. 217, Forty-ninth Congress, first session. This Rep., 262.)

Vessels seized by the Canadian authorities on the charge of violating commercial or trade laws or regulations of the Dominion.

W. D. Daisley, of Gloucester, Mass. Seized at Souris, October, 1886, on the charge that one of the crew had landed flour at Canso in the previous August. (This Rep., p. 197.)

The Druid, of Gloucester, Mass., John McQuinn, master. Sailing under register to buy fish, not to catch, and having on board no apparatus for fishing, was boarded by the captain of the Dominion cruiser *Houlette*, with armed men, and once detained two nights and a day under armed guard at Malpeque on a charge of technical violation of customs regulations; subsequently released. (This Rep., pp. 129-132.)

Morc Castle, of Gloucester, Mass., Edwin Joyce, master. Seized at Port Mulgrave, the Strait of Canso, September 11, 1886; stripped and held for an offense alleged to have been committed in 1884. (This Rep., p. 217 *et seq.*)

Vessels detained by Canadian authorities on the charge of violation of fishery or trade regulations of the Dominion of Canada.

Joseph Story, owned at Essex, Mass. Seized at Baddeck, Cape Breton, April 24, 1886, released April 25, 1886. (Senate Ex. Doc. No. 217, Forty-ninth Congress, first session.)

Matthew Keany, owned at Bath, Me. Detained twenty-four hours. (Sen. Ex. Doc. No. 217, Forty-ninth Congress, first session.)

Hereward, owned at Essex, Mass., McDonald, master. Seized July 3, 1886, at Canso. (Sen. Ex. Doc., No. 217, Forty-ninth Congress, first session; H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, p. 190.)

Everett Steele, of Gloucester, Mass., Charles E. Forbes, master. Detained in the port of Shelburne, N. S., 10th September, 1886, by Captain Quigley, of the Terror, boarded the Steele, took her papers, and put her in charge of a policeman till the following day, when she was discharged by the collector. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 52, 53, 54, 56, 153. This Rep., 216.)

Vessels warned off by Canadian authorities on the ground that they were about to violate fishery or trading laws or regulations of the Dominion.

Annie M. (or H.) Jordan, of Gloucester, Mass., was refused entry at the port of Andrews, New Brunswick, although licensed to touch and trade. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 15, 171-172, 175-176. This Rep., 163.)

Martha A. Bradley, Rattler, Eliza Boynton, and Pioneer, of Gloucester, Mass., were warned by the sub-collector of customs at Canso to keep outside an imaginary line drawn from a point 3 miles outside Canso Head to a point outside St. Esprit, on the Cape Breton coast, a distance of 40 miles. This line, for nearly its entire continuance, is distant 12 to 25 miles from the coast. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 16, 42, 44, 48-49, 56-57, 120-123, 190-191. This Rep., 153, 195.)

Thomas F. Bayard, of Gloucester, Mass., James McDonald, master; warned off by customs officials at Bonne Bay, Newfoundland, July 12, 1886. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 26-27, 46-47, 140-147, 150-151, 187-189.)

Mascot, of Gloucester, Mass., Alexander McEachern, master; warned by customs officials at Port Amherst, Magdalen Islands, June 10, 1886, that if fresh bait was purchased vessel would be seized. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 46-47, 118-119-120, 146-147, 150-152.)

Vessels subjected to hostile treatment by Dominion officials.

The Shiloh and the Julia Ellen.—While these vessels were entering the harbor of Liverpool, Nova Scotia, Captain Quigley, of the Canadian cruiser *Terror*, fired a gun across their bows to hasten their coming to, and placed a guard of two armed men on board each vessel, which guard remained on board until the vessels left the harbor. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 44, 122-23. This Rep., 168.)

Marion Grimes, of Gloucester, Mass., Alexander Landry, master; was in port of Shelburne, Nova Scotia, October 11, 1886, under detention for alleged infraction of customs regulations, and while so there Captain Quigley, of the Dominion cruiser *Terror*, compelled Captain Landry to haul down his (the United States) flag; upon its being run up a second time Captain Quigley went on board the *Grimes* and hauled the flag down with his own hands. (H. R. Ex. Doc. No. 19, Forty-ninth Congress, second session, pp. 124-25, 153-63.)

It will be seen, from the correspondence and papers submitted by the President, in his message on the subject, of the 8th of December last (Ex. Doc. No. 19, Forty-ninth Congress, second session), and from the testimony taken by the committee, that some of these instances of seizure or detention, or of driving vessels away by threats, &c., were in clear violation of the treaty of 1818, and that others were on such slender and technical grounds, either as applied to fishing rights or commercial rights, as to make it impossible to believe that they were made with the large and just object of protecting substantial rights against real and substantial invasion, but must have been made either under the stimulus of the cupidity of the seizing officer, sharpened and made safe by the extraordinary legislation to which the committee has referred, whereby the seizing officer, no matter how unjust or illegal his procedure may have been, is made practically secure from the necessity of making substantial redress to the party wronged, or of punishment or else they must have arisen from a systematic disposition on the part of the Dominion authorities to vex and harass American fishing and other vessels so as to produce such a state of embarrassment and inconvenience with respect to intercourse with the Provinces as to coerce the United States into arrangements of general reciprocity with the Dominion.

In respect of general reciprocity the experience of the United States during the existence of the treaty of 1854 was such as to lead Congress, with great unanimity, to terminate it; and the experience of the United States, under such so-called reciprocity as was provided for by the treaty of 1871, was such as to lead both houses, with very great unanimity, to terminate that. Each of these instances continued long enough to show fully the general working of the arrangement. The great balance of gain and advantage appeared to be in favor of the Canadians, while the great balance of loss and disadvantage fell on the people of the United States.

Indeed, the treaty of 1871, so far as it related to the fisheries, &c., was based upon the idea that the right of American fishermen to fish within 3 miles of the Dominion shores was of some considerable value, which the United States thought would be fully compensated by admitting Dominion fishermen to the waters of the United States and admitting their fish free of duty. Notwithstanding this, by the methods and results of settling the balance of pecuniary advantages by the Halifax Commission, the United States paid on the award of that Commission (waiving the serious question of its irregularity) \$5,500,000. So strong was the opinion of the United States, even at that time, that this award was wholly unjust in fact that it is understood that steps were taken to invite the British Government to terminate the fisheries clauses of the treaty of 1871 immediately and before the positive period of ten years had expired, but it could not be accomplished.

From the investigations made by the committee during the last summer and fall, and as the result of the great mass of testimony taken by it and herewith returned, the committee believe it to be clear, beyond all dispute, that the right to fish within three miles of the Dominion shores is of no practical advantage whatever to American fishermen. The cod and halibut fishing has been for many years almost entirely carried on at long distances from the shores, in the deep waters, on banks, &c.; and it is believed that were there absolute liberty for Americans to fish, without restriction or regulation of any kind, within three miles of the Dominion shores, no such fisherman would ever think of going there for the purpose of catching cod or halibut.

As regards the obtaining of bait for this class of fishing, the testimony taken by the committee in its inquiries clearly demonstrates that there is no necessity whatever for American fishermen to resort to Canadian waters for that purpose. Clam bait is found in immense quantities in our own waters, and there have been instances, so frequent and continuous as to amount to a habit, of the Canadians themselves resorting to American waters or ports for the purpose of obtaining it. The squid bait is found on the very banks where the fishing goes on. So that the instances would be extremely rare when any American fishing vessel would wish to resort to a Dominion port for the purpose of buying bait for this kind of fishing.

It was also proved before the committee that, with the rarest exception, it would be absolutely injurious to the pecuniary interests of all concerned for American vessels to resort to Dominion ports or waters, except in need or distress, for the time taken in such departures from the cod and halibut grounds, or from direct sailing to and from them, is so great that, with or without the difference of port expenses, time and money are both lost in such visits.

In respect of the mackerel fishery the committee finds, as will be seen from the evidence referred to, that its course and methods have of late years entirely changed. While it used to be carried on by vessels fishing with hook and line, and sometimes near the shores, it is now almost entirely carried on by the use of immense seines, called purse-seines, of great length and descending many fathoms into the water. This gear is very expensive, and a fishing vessel does not usually carry more than one or two. The danger of fishing near the shore with such seines is so great, on account of striking rocks and reefs, that it is regarded as extremely hazardous ever to undertake it. Besides this, the large schools of mackerel, to the taking of which this great apparatus is best adapted, are almost always found more than 3 miles from land, either in great bays and gulfs or entirely out at sea.

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There will be found accompanying this report (see Appendix) statements showing the total catch of mackerel during certain years and the parts of the seas where they have been taken; and it will also be seen from the evidence that in general the mackerel fisheries by Americans in the Gulf of Saint Lawrence and in the Bay of Chaleur have not been remunerative.

In view of all these facts, well known to the great body of the citizens of the United States engaged in fisheries and embracing every variety of interest connected therewith, from the wholesale dealer, vessel-owner, and outfitter, to that portion of the crew who receive the smallest share of the venture, it must be considered as conclusively established that there would be no material value whatever in the grant by the British Government to American fishermen of absolutely free fishing; and in this conclusion it will be seen, by a reference to the testimony, that all these interests fully concur.

It will also be noticed, on reference to the evidence, that it appears to show that when by force of the treaty of 1871 Canadian fish, both salt and fresh, were admitted to the markets of the United States free of duty, no fall of prices to the consumer took place, and that the abrogation of the duty simply redounded to the advantage of the foreign fishermen or the foreign dealers in fish exporting the same to the United States; and that when, on the 1st of July, 1885, the duty on salt fish was revived, no part of this duty was borne by the consumers in the United States, and that the cost of fish in the United States was not at all affected. It would follow that the sums received into the Treasury from these fish duties were paid and borne by the Canadians alone. A parallel instance is also found, on reference to the testimony, in the statements of gentlemen engaged in exporting salt fish from the United States to other countries where duties are imposed, these gentlemen stating that the duty thus imposed upon fish came out of their pockets and not out of the pockets of the foreign consumers.

As regards commercial and other friendly business intercourse between ports and places in the Dominion and the United States, it is, of course, of much importance that regulations affecting the same should be mutually reasonable and fairly administered. If an American vessel should happen to have caught a cargo of fish at sea a hundred miles distant from some Canadian port, from which there is railway communication to the United States, and should be denied the privilege of landing and shipping its cargo therefrom to the United States, as the Canadians do, it would be of course a serious disadvantage, and therefore, it is thought, nothing in the treaty of 1818 which would warrant such an exclusion. But the Dominion laws may make such a distinction, and it is understood that in fact the privilege of so shipping fish from American vessels has been refused during the last year.

It is also inconvenient and injurious that American vessels of any character, whether engaged in fishing, or licensed to touch and trade, purely mercantile vessels, should be unable in cases of occasional necessity to resort to Canadian ports for the purpose of buying supplies of any commodities that the ordinary laws of the Dominion allow to be imported at all. Several instances of such injurious and unfriendly action appear to have taken place.

The treaties between the United States and Great Britain on the subject of intercommunication and the rights of the citizens and subjects of one in the ports and territories of the other have not included the British dominions of North America (with possibly certain exceptions to intercourse by land), and such intercourse, strangely enough, still

remains the subject of legislation merely in the two countries. Such legislation to be tolerable must be mutually friendly and reciprocal, and laws upon the subject must be administered fairly and generously, and not in a spirit of carping at small matters or in any other wise in an unfriendly way. The committee is pained to believe that such has not been the course of British legislation or of administrative practice.

In view of all that has taken place, the committee thinks it to be the duty of the United States, in a firm and just way, to protect and defend the just and common rights of the people of the United States, whether fishermen, or traders, or travelers, or all, by all such measures as may be within our power. The measures the committee propose to this end rest upon a principle universally recognized as right and necessary in the intercourse of nations, and it has often been resorted to in one form or another by many nations.

It is recommended that the President of the United States be invested with the power, and that it be made his duty, whenever he shall be satisfied that unjust, unfair, or unfriendly conduct is practiced by the British Government in respect of our citizens and their property within the ports or waters of the British dominions in North America, to deny to the subjects of that Government in British North America and their property, or to any classes of them, such privileges in the waters and ports of the United States as he may think proper to name, and to suspend in respect of such vessels or classes of vessels or such property or classes of property of the subjects of such Government the right of entering or being brought within the waters or ports of the United States, so that he shall be able from time to time, as each emergency may arise, to preserve the intercourse between the United States and that Government in a state of fair equality. The committee therefore recommends the passage of the bill (S. 3173) herewith reported.

The committee also recommends that the papers, documents, and maps herewith returned be printed.

All of which is respectfully submitted.

GEO. F. EDMUNDS,
For the Committee.

[49th Congress, 2d session, S. 3173.]

A bill to authorize the President of the United States to protect and defend the rights of American fishing vessels, American fishermen, American trading and other vessels, in certain cases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall be satisfied that American fishing vessels or American fishermen, visiting or being in the waters or at any ports or places of the British dominions of North America, are or then lately have been denied or abridged in the enjoyment of any rights secured to them by treaty or law, or are or then lately have been unjustly vexed or harassed in the enjoyment of such rights, or subjected to unreasonable restrictions, regulations, or requirements in respect of such rights; or whenever the President of the United States shall be satisfied that any such fishing vessels or fishermen, having a permit under the laws of the United States to touch and trade at any port or ports, place or places, in the British dominions of North America, are or then lately have been denied the privilege of entering such port or ports, place or places, in the same manner and under the same regulations as may exist therein applicable to trading vessels of the most favored nation, or shall be unjustly vexed or harassed in respect thereof, or shall be prevented from purchasing such supplies as may there be lawfully sold to trading vessels of the most favored nation; or whenever the President of the United States shall be satisfied that any other vessels of the United States, their masters or crews, so arriving at or being in such British waters or ports or places

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of the British dominions of North America, are or then lately have been denied any of the privileges therein accorded to the vessels, their masters or crews, of the most favored nation, or unjustly vexed or harassed in respect of the same, then, and in either or all of such cases, it shall be lawful, and it shall be the duty of the President of the United States, in his discretion, by proclamation to that effect, to deny vessels, their masters and crews, of the British dominions of North America, any entrance into the waters, ports, or places of or within the United States (with such exceptions in regard to vessels in distress, stress of weather, or needing supplies as to the President shall seem proper), whether such vessels shall have come directly from said dominions on such destined voyage or by way of some port or place in such destined voyage elsewhere; and also, if he think proper, to deny entry into any port or place of the United States of fresh fish or salt fish or any other product of said dominions, or other goods coming from said dominions to the United States. The President may, in his discretion, apply such proclamation to any part or to all of the foregoing-named subjects, and may qualify, limit, and renew such proclamation from time to time as he may deem necessary to the full and just execution of the purposes of this act. Every violation of any such proclamation, or any part thereof, is hereby declared illegal, and all vessels and goods so coming or being within the waters, ports, or places of the United States contrary to such proclamation shall be forfeited to the United States; and such forfeiture shall be enforced and proceeded upon in the same manner and with the same effect as in the case of vessels or goods whose importation or coming to or being in the waters or ports of the United States contrary to law may now be enforced and proceeded upon. Every person who shall violate any of the provisions of this act, or such proclamation of the President made in pursuance hereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both said punishments, in the discretion of the court.

AMERICAN FISHERY INTERESTS.

IN THE SENATE OF THE UNITED STATES.

Testimony taken by a subcommittee (consisting of Senators Edmunds, Frye, and Saulsbury) of the Committee on Foreign Affairs, under the following resolutions of the Senate, of the 25th of July, 1886:

Resolved, That the Committee on Foreign Relations be, and it hereby is, instructed to inquire into the rights of American fishing vessels and merchant vessels within the North American possessions of the Queen of Great Britain, and whether any rights of such vessels have been violated, and, if so, to what extent; that said committee report upon the subject, and report whether any and what steps are necessary to be taken by Congress to insure the protection and vindication of the rights of citizens of the United States in the premises; and that said committee have power to send for persons and papers, to employ a stenographer, and to sit during the recess of the Senate, either as a full committee or by any subcommittee thereof, and that any such subcommittee shall for the purposes of such investigation be a committee of the Senate to all intents and purposes.

Resolved, That the necessary expenses of said committee in said investigation be paid out of the appropriation for the miscellaneous items of the contingent fund of the Senate, upon vouchers to be approved by the chairman thereof.

TESTIMONY OF GEORGE H. WATTS.

BOSTON, MASS., September 30, 1886.

GEORGE H. WATTS sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Forty-nine last April.

Q. Where do you reside?—A. In Charlestown, Mass.

Q. What is your occupation?—A. Wholesale fish dealer in Boston.

Q. How long have you been in that business?—A. It will be seventeen years the 1st of December coming; I think that is about the time.

FRESH FISH.

Q. Do you deal in both salt and fresh fish?—A. No, sir; exclusively in fresh fish.

Q. What kinds of fresh fish chiefly?—A. Cod, haddock, halibut, mackerel, bluefish, sword-fish, hake, cusk, pollock, and flounders. Those are the principal fish we have. Of course we have eels and perch and all those small fishes, that we deal in to a small extent, as well as herring in the winter.

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Q. About how many different vessels, in round numbers, come to deliver their catch to you in a season?

The WITNESS. That is, taking in all varieties of fish?

Senator EDMUNDS. All varieties.

A. I should say at least four hundred. You will understand, gentlemen, that I don't mean to say that they run continuously, but we have that many different vessels.

Q. About what would be the average number of persons employed on a vessel, including captain and all hands?—A. They will average, I should say, fifteen men to a vessel; some will not carry more than twelve, while others might carry twenty; I don't think the average would be far from fifteen.

Q. What portions of the sea-coast—and by "coast" I mean all the Banks from the south to the extreme northeast—do all those vessels cover?—A. They cover all the fishing territory between the North Bay, Nova Scotia, and the Grand Banks, Georges, and all the intermediate fishing grounds to the south of us.

Q. How far south does that go?—A. They go as far as Pollock Rip and Cape Hatteras. Perhaps I may be in error about that; I refer, of course, to the southern border of the mackerel fishing.

Q. What is the southernmost trip taken by any vessel that comes to you here?—A. Cape Hatteras. Fishing is only of short duration in the spring.

EXTENT OF FISHERIES.

Q. About how many, should you think, of these different vessels fish at some time during the season in waters to the north and east of United States territory?—A. I should say at least two-thirds of the whole fleet during the year. Perhaps I can explain that a little further, so that you will understand it more readily. Some parts of that fleet will go in the winter after frozen herring; many of them will go down to what is called Fortune Bay and Bay of Islands; others will go down to Grand Manan, opposite Eastport, Me.; then there are others that in the spring of the year will go off on some of those grounds adjacent, after codfish, on what is called the Cape Shore; Cape Negro is another point they make; and others, of course, will go on to the neutral grounds, the Banks. The mackerel fleet will go all along the northeast coast down as far as North Bay. I think that is about the terminus. They also catch some halibut in these waters.

FISHING SEASONS.

Q. What is the mackerel season in those waters?—A. Generally from about the 1st of July until the 1st of September; that is what they call the mackerel season, but they often catch them later. They have caught them this year until the last part of September.

Q. What is the halibut season up there?—A. On the Banks that is generally the year round. Of course they catch more in the summer than in the winter, but when the weather is not too boisterous they go the year round.

Q. Are any other kinds of fish taken there except mackerel and halibut?—A. Yes; they take salmon and some shad. I suppose you would not call them ocean fish, although many of them are caught in the bays.

FISHING LOCALITIES.

Q. They are caught within three miles of the shore line?—A. Yes, sir; great many salmon are caught in St. John Harbor.

Q. You do not get any salmon or haddock to speak of in those waters?—A. No, sir; I don't think they get any haddock down there to speak of; they may get a few around Digby.

METHODS OF TREATMENT.

Q. The codfish our people catch up there are salted there, are they not?—A. Yes; most of them are cured in the vessel.

Q. Is not that true also of mackerel?—A. Yes, sir; though no mackerel come from there except by steamer. We have had one steamer called the Novelty, that has run four or five courses. She was built for that business, and generally runs four or five trips.

THE CASE OF THE NOVELTY.

Q. The Novelty is the vessel, is she not, about which there has been some difficulty?—A. There has been some controversy; I hardly think there has been any difficulty. Captain Jones says he has not been molested to any extent, but they would not allow him to land to get coal. They claimed that coal was not provided for by the language of the treaty allowing vessels to land for wood, water, shelter, and to repair damages. They claimed that wood and water were all that was allowed to be landed for under the terms of the treaty, and they would not allow him to take in coal. He tried to land on the Magdalen Islands for coal, claiming that that was neutral ground, but they would not allow that.

Q. Is Boston the home port of that vessel?—A. No, sir; her home port is Portland.

THE THREE-MILE LIMIT.

Q. Tell us what you know and think as to what proportion of the fish, before the expiration of the last treaty, were caught within the three-mile limit, saying nothing about the headland question.—A. I have made some inquiries at different seasons in regard to the fish caught within the three-mile limit, and although I do not speak by authority, yet, as nearly as I can ascertain, the amount of fish caught during the term of the last treaty, twelve years, did not exceed \$764,000 worth in the markets.

By Senator FRYE:

Q. Do you mean as sold in the markets?—A. Yes; that was the market value.

By Senator EDMUNDS:

Q. What do our vessels have occasion (supposing they are not to fish inside the three-mile limit) to go inside for?—A. A vessel might get out of ice when fresh fishing, or it might get out of stores, or water, or something of that description. Aside from that, nothing but stress of weather, I should suppose, would drive them in.

BAIT.

Q. How is it as to the question of bait?—A. Of course that is a contingency to be looked at; still I think there is no trouble about our vessels getting all the bait they want in our own waters, if the Canadian ports were closed entirely so that they could not go in there at all.

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Q. Take mackerel, for instance; what is the bait used for them?—A. They are not taken with bait, but with seines.

Q. The great mass of mackerel are now taken in purse seines?—A. Yes; you might say the entire lot.

Q. What kind of bait is used for halibut?—A. Herring to some extent, but squid almost entirely. Sometimes they take out salt bait if fresh bait is not plentiful. My theory in regard to that subject is that our vessels have been so used to go into Canadian ports for bait because they can get it there so cheap, that it has done away with them taking a supply of bait with them when they sail. They are afraid to go for bait, for fear they cannot find a market for it. I think herring can be taken in our own waters all the year round.

MENHADEN.

Another important point in that connection is the menhaden question. If our Government would look at that question as we look at it, and prohibit those steamers from catching menhaden for oil, which has driven them off of our shores almost entirely, we would have plenty of menhaden all the time. But these steamers begin in the spring and catch them at all seasons, and grind them up for oil, and that has a strong tendency to drive the menhaden from our shores.

By Senator FRYE:

Q. Are they good bait?—A. Splendid bait.

Q. You would prohibit that entirely?—A. I don't know as to that. But it seems to me really that if this controversy is going to continue between the two countries in regard to the fisheries, we ought to use every endeavor and every resource we have to procure our own bait. These steamers go out and catch menhaden and porgies expressly for oil purposes; the steamers are built for that purpose; they take them in large quantities, and have done so for years, until the last year or two, when they have scarcely been able to get any. They take all that comes along and grind them up for oil. Our fishermen of course have to go without that bait, from the fact that they cannot find any. If something was done by legislation to prevent those steamers from catching menhaden for a certain length of time we would have them back on our shores.

By Senator EDMUNDS:

Q. Would not the effect of that also be to bring in the bluefish, mackerel, and all other shore fish?—A. I should not be at all surprised if that would have some effect on those other fishes. We now get almost no bluefish.

BAIT.

Q. What kind of bait is found on the Banks and up to the northeast?—A. I do not know really in regard to that. I think you will get more information on that subject at Provincetown than I can give you, as I have never been engaged in that kind of fishery. I suppose, however, that they use the same bait that we do in our business—squid, herring, and those small fish.

Q. Are the codfish taken with salted bait?—A. They are very loth to bite salt bait.

Q. They have salt enough in the sea for their purposes?—A. Yes. They do not bite herring even as well as they do squid.

THE MARKET FOR FRESH FISH.

Q. Where do these great quantities of fresh fish go that pass through the hands of yourself and your fellow-dealers here in Boston?—A. They are shipped all over the country, far and near. We ship them as far west as Saint Louis, and even at times as far as Kansas City. We ship them all through the western part of New York, to Michigan, Wisconsin, and through the Canadas, and north through our own eastern and middle States.

THE THREE-MILE LIMIT.

Q. Can you tell me in general what you think is the relative proportion, say of mackerel, that, before the three-mile treaty expired, were caught within the three miles, to those caught without?—A. No, I don't think I can tell you perhaps as well as some gentlemen can at Gloucester on that point. My opinion, however, would be that the proportion caught inside would be very small; in fact, according to the statistics, that must be so. Again, it is very seldom that our vessels go down in the bay for mackerel when we have mackerel in our own bays. The bay is regarded by our fishermen as the last resort for mackerel when they cannot be taken nearer. It is only when the mackerel are driven inshore by dog-fish or bluefish, or some of the larger fishes, that you can catch mackerel close to shore. They mostly keep out unless they are driven in by some fish obnoxious to them.

Q. How would that be with the cod?—A. I don't think that our men go there often for cod; I do not think there are many cod on the shores down there; I never heard of many being caught along shore; they are mostly taken on the banks and out to sea.

Senator EDMUNDS. I know that the fishermen on the north shore of the Bay of Chaleur and along that coast go off into the bay as much as ten miles to catch their cod.

The WITNESS. Go down to Yarmouth, and you will find them out ten to twelve miles from shore.

Q. Taking the results of your observation and information, what would you consider the real value to our fishermen of the right to fish within the three-mile limit, saying nothing about the bait question?—A. As far as I can ascertain, from talking with our most intelligent fishermen, I think there would not be one dissenting voice if they were excluded entirely from the three-mile limit; that is, that they should not go within three miles of the shore; I do not mean within a line drawn from headland to headland. The bluefish that are caught within the three-mile limit are no account at all.

Q. Are not all the fish along our coast that amount to anything caught outside the three-mile limit?—A. Yes, pretty much.

DUTIES ON FISH.

There is one thing perhaps I ought to state in regard to the duties on fish.

Senator EDMUNDS. That has a bearing upon the international question, and we would like to hear your views about that.

The WITNESS. I have studied this question somewhat, and have followed the legislation of Congress with some particularity as far as it has gone, and I have found that there was no one before the committee at Washington to explain to that committee what effect the duties on fish

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from a foreign port would have upon the consumer. I think I saw that Mr. West and Mr. Blackford, of New York, and I think one or two from Boston—I think Mr. Jones was one of them—stated to that committee that they wanted free fish because it would cheapen food-fishes to the consumer. In my opinion the result would be entirely different. The imposition of a dollar a hundred as duty on fish coming into our market would not have the effect to cheapen fish to the consumer. Everybody should understand the question as we see and know it to be. The retail markets all over the country—south, west, north, and east—always have a stated price the year round for fish—a certain price for codfish, for haddock, for halibut and for mackerel, and that is the price that they continue to have whether they buy cheap or dear. They buy, of course, at wholesale, like myself, as a rule. But whereas we rise and fall with the market, as the market is sustained by the quantity that is brought in, they have a steady price the year round. If they are worth \$1.50, the addition of \$1 duty would make them sell for \$2.50. If there was no duty, they would sell for \$1.50. But the consumer has to pay the same price with or without duty. The same principle holds good with reference to cod, haddock. I think the parties who made that statement before the committee, that free fish would tend to cheapen fish to the consumer, were laboring under a mistake.

Then, again, there is another thing which is going to be of very great importance to the fishers off our coast, if our Government gives them the free right to come into our markets with fresh fish as well as salt. I say if there is going to be duty on either let it be on both. Duties on salt fish will not help you if you leave the markets open for fresh fish. Halifax, St. John, Montreal, and Quebec are great railroad and steamboat centers. Now, if fish are allowed to come into our country free it will be the easiest thing in the world to distribute those fish from the first of November to the first of April from all those points all through our country at a good deal less price than we can buy them for from the vessels and at a less price than our vessels can afford to catch them for.

FRESH FISH SHIPPED TO THE WEST AND SUBSEQUENTLY CURED.

The duties on salt fish being so much, fresh fish might be shipped through to Chicago, and other points west, and there cured. How are you going to stop it?

Q. That is, they are shipped as fresh fish and cured afterwards?—A. Yes; shipped for immediate consumption, according to the construction of the law, but when they get there they are put into salt.

CANADIAN DUTY.

The Canadian Government last summer passed a law imposing a duty of 50 cents on fish, and yet I ship to Quebec or Montreal, having to pay only 50 cents a hundred. I can illustrate this by stating a transaction that took place at Yarmouth last spring. One of our vessels went out haddocking on the Georges and got blown out of her course.

Q. You mean Yarmouth, Nova Scotia?—A. Yes; he made port at Yarmouth. He had from 12,000 to 20,000 fish. Of course he did not want to keep them while going back to the Banks, for fear of losing them, and so he sold them in Yarmouth; I think he got \$92 or \$93 for what he had. Before he got paid for them and got away the custom-house folks came down on him and made him pay a little more for duty

than he got for his fish. The purchasers boxed them up and sold them here in the Boston market.

Q. The same identical fish?—A. The same identical fish.

By Senator FRYE:

Q. Do you know what he got for them?—A. I think it was \$2.56; they were scarce at the time when they happened to come in. It is quite a large question, of course, but the interest at stake here all along our coast I think is large enough to justify our Government in taking hold of it with a proper degree of earnestness. We have \$37,000,000 invested in our fisheries, and it seems to me we have some right to protection at the hand of our Government.

NATIONALITY OF FISHERMEN.

By Senator EDMUNDS:

Q. What is the nationality of the majority of these fifteen or twenty men to the vessel who come to this port?—A. So far as I understand it I should say that they are about half Nova Scotiamen; perhaps the proportion is even larger than that. You can ascertain that more definitely in Gloucester. There are some very progressive men in Gloucester, and, if you are not acquainted with parties there, I can give you the names of some gentlemen who are large owners, and who are interested in the question accordingly.

Senator EDMUNDS. Before you leave the room, please write their names down and give the list to the clerk.

The WITNESS. You will also be able, I think, to obtain much information at Portland.

THE FISHERMEN'S SHARE OF THE PROFITS.

By Senator FRYE:

Q. What proportion of the estimated price of fish do the fishermen themselves get?

The WITNESS. You are speaking of our own fishermen and of fish caught in our own waters?

Senator FRYE. Yes.

A. To-day, for instance, the market is bare and prices are high. Haddock sold to-day as high as \$5 a hundred.

By Senator EDMUNDS:

Q. Do you mean a hundred pounds, or a hundred fish?—A. A hundred pounds. We paid \$5 to the fishermen, and we sell them for \$5.50.

By Senator FRYE:

Q. What does the retailer get?—A. Different prices in different places; 7 cents a pound is the price for haddock, and 10 cents for cod.

Q. What proportion will the retail price bear, on the average, to what the fishermen get? Will the fishermen get half?—A. Oh, no; I suppose they do not get over one-third. As a rule the fishermen get within half a cent of what the dealers get, whether the price is high or low. Sometimes they get more than the dealers, if the dealers happen to buy too high.

FROZEN FISH.

Q. What do you know about the freezing processes that have obtained in the last ten or twelve years?—A. I think they have been of great detriment to the business.

Q. What are the processes?

The WITNESS. You mean the way they are cured?
Senator FRYE. Yes.

A. The cold air acts on the fish so as to preserve them, the same as salt does. Refrigerating houses are built in which the fish are hung on hooks until frozen. The interior of those houses is intersected with cold-air pipes, and over the top of the interior are placed ice and salt. These pipes run into the freezing-room and reduce the temperature down to a point considerably below zero sometimes, but as a rule from five to ten above zero.

Q. How long can those fish be preserved in that way?—A. Just as long as they can be kept from thawing.

Q. Suppose a cargo of those frozen fish were to come from St. John, New Brunswick, in a car?—A. When the weather is not too warm you can keep them all winter.

Q. Do you keep them in refrigerators?—A. Not in the winter time.

Q. In the summer they have to be transported in refrigerator cars?—A. Yes; going west, they generally go in refrigerator cars.

Q. So that a cargo of fish might arrive here in Boston in the summer and be distributed all over the country?—A. Yes.

Q. And be preserved for a considerable time?—A. Yes. There is no trouble about keeping fish after they are once frozen; they will continue to keep as long as they can be kept from thawing.

Q. Do most of the vessels take ice?—A. Yes, but the ice does not freeze the fish, it only serves to keep them.

Q. What do you do with them after you get them in the Boston market?—A. We take them out and put them in ice-boxes, and immediately ship them to the parties who order them.

Q. And you can send them all over the country?—A. Not in the summer time. It costs more to ship them in the summer than in the winter.

Q. What is the average time that they are kept fresh in the summer, from the time they are taken up to the time they are consumed?—A. I should say about six days from the time they are taken from the water; that is, averaging right through, all kinds of fish.

Q. Then it is six days after they are taken before the consumer gets them?—A. Yes, on the average.

Q. In the winter how long is the average?—A. That depends on the state of the fish. Sometimes fish are caught in extremely cold weather and the weather freezes them; such fish you can keep a long time. Fish that are brought in in ice in the winter will not keep any longer than in the summer.

Q. Suppose a cargo of halibut frozen comes into Gloucester?—A. They do not come in frozen. You cannot freeze halibut with any advantage; that has been tried.

Q. Suppose a cargo of frozen hake comes to Gloucester?—A. We may take frozen hake and put them into a freezer, but no hake are handled from Boston. We have had cargo after cargo from the Grand Banks in the middle of January, and we had to keep them until the middle of March before they were cleared out.

Q. You spoke of supplying the West as far as Kansas City with fresh fish. What time is consumed from the time those fish are taken out until they are consumed in Kansas City?—A. Probably ten days.

Q. They can by their freezing processes keep the fish for months and months before they send them out?—A. Yes.

Q. And supply the market as they please with frozen fish?—A. Yes.

EXTENT OF FRESH-FISHING INTERESTS.

Q. Have you any idea as to the extent of the fresh-fish market in this country?—A. No, sir; I cannot give you any reliable information except as to our own market. We handle here in Boston about 60,000,000 pounds per annum; that includes all kinds of fresh fish.

CURING OF FRESH FISH AFTER LANDING.

Q. Your idea is that that item of our tariff law which says "fish fresh for immediate consumption" ought not to apply to any of these frozen fish?—A. Yes. I do not see why frozen fish cannot go on the list as cured fish as well as salt fish. They are certainly cured for preservation, are they not? They are not cured for immediate consumption.

Q. Suppose a cargo of halibut comes into Gloucester fresh, and is shipped from Gloucester fresh to Boston; is there anything to prevent those fish being cured in Boston?

The WITNESS. You mean foreign fish, from Nova Scotia?

Senator FRYE. Yes.

A. Well, no, sir; there is nothing that I know of. I did hear this summer of a Nova Scotia vessel coming in, and they had to pay duties, but I am not sufficiently versed in that matter to give any accurate information about it.

Q. Is there any way, under the present tariff law, which admits free of duty fish fresh for immediate consumption, by which you can prevent the landing of fresh fish and their subsequent curing?—A. I do not know any possible way. Take this case: We had shipped to us from Halifax on last Monday's steamer between 113,000 and 114,000 mackerel; they were bought at Halifax by telegraph. We buy mackerel according to their lengths, those from 13½ inches up being considered large. They telegraphed that the fish were from 11½ to 13½. We ordered them, and they were shipped. When they arrived we found that there were 370 barrels of those fish that would not measure ten inches. Those fish could not be kept 48 hours after they arrived here unless there was something done with them. What was the consequence? Those fish were canned. Then we had more large mackerel than we could sell fresh. What were we going to do with them? They cost us a high price, and we could not afford to lose them. We bought them for immediate consumption, but the market would not take them. There were more fish than we expected, and we were obliged to salt those fish or throw them away. A man will not throw fish away if he can save them, and so we salted them. I think that is a good illustration of how that law can be evaded.

FISH, FRESH, FOR IMMEDIATE CONSUMPTION.

Then, again, how can they make a man responsible for fish bought for immediate consumption when he cannot sell them at all? How can the law compel payment of duty in such a case? The object of this law, as we look upon it, is not to compel the American people to pay duties, but it is to make the people who ship the stock here pay them. Is not that the construction of the law? The fish come here for immediate consumption, and we have either got to be at a loss by throwing them away, or salt them, and it seems to me that under such circumstances it would be pretty hard if we were compelled to pay duty on them.

Q. Have you in fresh for immediate consumption?—A. No. I know of many must be quite a large vessel with a cargo of cured fish that can come from a Canadian vessel nor do I know a vessel is allowed.

Q. You spoke were in business existence of the Yes.

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PROPORTION OF

By Senator

Q. What proportion falls on the foreign? The WITNESS.

Senator EDMUND

A. I do not think has been any duty worked badly.

Q. Take the same how the duty has

Q. That is what a hundred, the profits of the whole it comes out of the duty before the price here.

Q. You cannot dealer makes, and fishermen?—A. A dealer can contribute

Q. Does not the that I have got to charge the dealer would?—A. I do

Q. Do you know any more on the I think they have been that the Canadian people.

Q. Have you any idea what proportion of fish, the year round, brought in fresh for immediate consumption, are really subsequently canned or cured?—A. No, sir; I could not give you any direct information. I know of many lots, and there are many lots going to other places. There must be quite a large percentage that are subsequently cured.

Q. Do you know of anything which prevents a Canadian coming into port with a cargo of fresh fish, admitted free, and the whole cargo being cured subsequently?—A. No, sir; I do not know of any law now existing that can compel a dealer in Gloucester who buys a cargo of fresh fish from a Canadian vessel, and cannot use them fresh, from salting them; nor do I know of any law that can compel the payment of duty, if the vessel is allowed to enter and sell her fish, by the man who buys the fish.

EFFECT OF DUTY UPON THE CONSUMER.

Q. You spoke about the price not being changed by the duty. You were in business before the treaty of 1870, were in business during the existence of the treaty, and have been in business since it expired?—A. Yes.

Q. Did it have any effect upon the price to the consumer?—A. No, sir; not a particle.

PROPORTION OF DUTY PAID BY FOREIGNERS AND BY AMERICANS.

By Senator EDMUNDS:

Q. What proportion of this fish duty, while in operation, do you think falls on the foreigner, and what proportion on the buyer from the ship?

The WITNESS. The fresh fish, you mean?

Senator EDMUNDS. Yes.

A. I do not think there is any falls on either; I do not think there has been any duty paid on fresh fish. So I say that is where the law worked badly.

Q. Take the salt fish?—A. With reference to salt fish, I don't see how the duty has made one cent's difference to the consumer.

Q. That is what you stated; but suppose there is a duty of half a dollar a hundred, who pays that half-dollar? Does it come out of the profits of the wholesale dealer, or of the man that brings them in?—A. It comes out of the foreigner who brings them in, because he has to pay the duty before he lands, and then he has to sell his fish at the market price here.

Q. You cannot see that part of it would be a contribution that the dealer makes, and the other part would be a contribution made by the fishermen?—A. Well, I don't see how that can be; I don't see how the dealer can contribute.

Q. Does not the man who brings in the fish say to himself, "Now, what I have got to pay half a dollar a hundred on these fish, I must charge the dealer a quarter of a dollar a hundred more than I otherwise would"?—A. I don't think that would hold water; I never saw a fisherman that wouldn't ask all that he could get, duty or no duty.

Q. Do you know whether the wholesale dealers in salt fish have paid any more on the average since the duty revived than before?—A. I think they have bought them for a great deal less. I think the duties that the Canadian people will pay on the fish they take out of their own people.

PRICE OF CODFISH AS AFFECTED BY THE TREATY OF 1873.

Q. What was the average price of codfish at wholesale during the existence of the treaty of 1873?—A. I can't give you the exact figures; but Georges codfish ran all the way from \$3.75 to \$7 per quintal, and Bank fish in the same proportion, only a little less; they don't bring quite as much.

Q. Since the treaty terminated, how was it?—A. Since the treaty terminated fish have never been so low as they have been in the last three years, on account of the market being glutted all the time; there has been more than could be consumed. Georges codfish have sold as low as \$3.25, and Bank at \$2.75, and I have known them to sell as low as \$1.25.

Q. You say the market has been glutted?—A. Yes; there has been either less demand or more fish, I don't know which. I think the demand for salt fish has fallen off a great deal, from the fact that the canning business has increased and the facilities for shipping fresh fish have increased. Of course there are only about so many fish consumed of all kinds, and whichever kind increases the other kinds will be decreased to that extent in the quantity sold. It is my opinion that the increase in canning fresh fish has been detrimental to the sale of salt fish and has decreased the quantity that would otherwise have been salted.

EXPORTATION OF FRESH FISH TO CANADA.

By Senator FRYE:

Q. During the winter months of last year how large a sale of fresh fish did you make in the Canadas?—A. I should say about 38 tons per week.

Q. How large during the summer months?—A. In the summer months I should say about 10 tons or 20,000 pounds a week.

DUTY.

Q. On all that you pay a duty of how much?—A. They pay the duty.

Q. There is a duty?—A. Yes, sir; of about 50 cents a hundred of fresh fish.

Q. When you send it there you pay the duty?—A. No, sir; they pay their own duty.

Q. That duty is 50 cents a hundred?—A. Fifty cents a hundred.

By Senator SAULSBURY:

Q. Is that an import duty?—A. It is an export.

Q. If you export them they are subject to the Canadian duty, are they not?—A. We never had to pay it; they have always paid their own duties. We telegraph the price of our markets in the morning, and they know that they have got to pay half a cent duty on it when they buy. We ship at that price, and they pay their own duties.

By Senator FRYE:

Q. But there is a duty on all fresh fish shipped to Canada, under the tariff law?—A. Yes; a duty of fifty cents per hundred pounds.

Q. Of course that exportation is all to the Upper Canadas?—A. Montreal and Quebec.

Q. Do you send there any cured fish?—A. Very little; once in a while just a little; not enough to take any account of. I think you will find

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that at times they send some from Gloucester, and I rather think from Portland also; if I am not greatly mistaken, John Leverton sent some considerable quantity of salt fish there.

CLOSE TIME.

Q. There is pending before Congress a proposition to make a close time on mackerel, from March, I think, until the middle of June or first of July?—A. The first day of June.

Q. You have had pretty large experience in dealing with mackerel; what is your opinion of that proposition?—A. I think it would redound to the benefit of the fishermen, the dealers, the vessel-owners and all, more than most anything that could be done, from the fact that the mackerel caught in the spring are of very inferior grades. They are caught from the time they start from the Gulf Stream and are destroyed by the seines. The schools are broken up, so that the fish are driven off, and by the time the fish reach their destination they are to a large extent unfit for food, and they only cumber the ground, as you may say, and take the place of nice stock that could be sold if they were not in the market. A close time would also give the mackerel a chance to get back on their old spawning ground where they used to spawn years ago. I can not find any one who disagrees with me on all these points with the exception of two or three parties in New York. This testimony is going to be confidential, I understand, but I would not like to make any more statements, on account of New York, for I deal very heavily in New York. Mr. Blackford, who is one of the fish commissioners in New York, is a large retail dealer, and very much interested about getting the first fish of the season. Then there are two or three firms that sell on commission, to whom the largest part of the fleet always consign their cargoes for that market, and they sell for 12½ per cent. commission, so that of course all the fish they can handle is for their pecuniary benefit.

Q. What time do you say the mackerel spawn?—A. As far as I can learn, from about the middle of April to the end of May.

Q. And you would interdict fishing during the whole spawning season?—A. Yes; I think such a measure would be of great benefit. The mackerel begin to get in good order and become healthy about the 1st of June. I do not think any fish is so healthy in the spawning season as afterwards. Then, if we could have close time, it would make the market better, the people would be better pleased with the fish they buy, and there would be more general satisfaction.

Q. So your opinion is very decidedly that both consumer and fisherman would be benefited by a close season?—A. Yes; that is my idea, because the fish are not good in the spring. I have known millions to be taken in the spring, and I have known thousands of them to be carted through the streets so nearly decomposed that their entrails were hanging out. This practice is something that we here have been talking against for years and years. The fact is just this, and anybody can see it: They never used to think of going south any further than No Man's Land for mackerel, and then about the time they had got through spawning; but one would become a little more energetic than another and go farther south, and that has been kept up until they have gone south of Cape Hatteras, and of course the further south the poorer the fish are. In consequence of going so far south the percentage of large fish taken has been reduced from 56 down to 6. The percentage of large fish in our catches of mackerel the last two years has not been far from 6 per cent., while in 1868 and 1869 it was 56 per cent.

Q. You charge that reduction to taking them in the spawning season?—A. Yes; I cannot think of any other reason for it.

Q. Do you know what is the general feeling in regard to that proposition among the men who are dealing in fish and among the fishermen themselves?—A. I can tell you in regard to our folks here. We have an association, called the Fresh Fish Association, of which I am chairman. I called a meeting of that association last spring for the express purpose of getting the voice of the people on that question. We took a vote on it, and the vote was unanimous in favor of having a close season to the first of June, and there were forty-three firms represented in the meeting.

By Senator SAULSBURY:

Q. You speak of the fishermen here. What is the opinion of the fishermen who are engaged, not in the same line of fishing that yours are, but who are engaged principally in the summer fisheries along the coast?—A. As far as I know I have not yet found a fisherman of any grade, with one exception, who was not in favor of a close season, and he was a Nova Scotian, one of those men who want to get ahead of everybody else. But the cod-fishermen, the halibut, and blue-fishermen, and all the New York fishermen, are in favor of a close season, because it helps them more, and by having it these poor mackerel are kept out of the market, and they have a better chance. I saw a report that some New York gentlemen had stated before some committee of Congress that New York vessels were largely engaged in the spring mackerel catching. That is entirely erroneous; New York has not one of those vessels are from Gloucester, Portland, Cape Cod, and Boston.

By Senator EDMUNDS:

Q. That you know positively, from your business?—A. Yes; they haven't got a mackerel boat in their New York fleet.

PRICES OF THE EARLY CATCH OF MACKEREL.

By Senator SAULSBURY:

Q. What is the difference in price to the consumer between those fish caught in the spring and those which are caught by your fishers here in the regular season?—A. There is no difference in the price to the retailers. I have seen thousands and thousands sold in New York where the same price was charged to the retailers.

By Senator EDMUNDS:

Q. I understand you to say that you are familiar with the New York market. Have you spent a good deal of time there?—A. Yes; I have spent ten consecutive springs there, and bought for dealers here, including myself. I am as well acquainted in Fulton Market as in Boston, I think.

By Senator SAULSBURY:

Q. Your opinion is that the spring catching does not make fish cheaper to the consumer at any season?—A. Not at all. If, as I said before, the retail dealers would rise and fall with the market as the wholesalers do, it might make a difference, but where they have a stated price it cannot.

By Senator EDMUNDS:

Q. And they do have that?—A. Yes. Go to our market to-day and inquire the price of mackerel, and you will find that they are from three

to five times as high as a retailer has got to order to live; he has to pay for it, and he can only sell an unprofitable lot. Q. He must provide

By Senator SAULSBURY:

Q. Mackerel always sells in this market in that way. You make your consignment, and then we sell. Count on half barrels. They will be in one package, and then the rest of our stock in another ship altogether by which it is shipped as freight. We can't sell it during the summer.

TESTIMONY

CHARLES W. WRIGHT.

The WITNESS. I was called to the stand, but I was reluctant, but under the circumstances I felt in my mind that I should give the thing the whole trend was in a direction. We sent on a commission to me as if it were a matter of course. That committee were in that position where they have some difficulty or some solution. I certainly am interested in vessel. They were to be protected in any other way could be proposed. I should say that they are protected.

By Senator EDMUNDS:

Question. Will you be a dealer? I live in Brooklyn. Q. And you are in business? Q. What is your age? Q. What is your occupation? Q. Is it a business? Q. Salt, or fresh fish? Q. What classes of fish? Q. And canned fish? Q. And others are cured fish?

to five times as high as we sell them. I cannot find any fault with that. A retailer has got to get considerably more than he pays for them in order to live; he has to dress them and get them up for sale, and then he can only sell an uncertain quantity.

Q. He must provide for losses every day?—A. Yes.

METHOD OF SHIPPING.

By Senator SAULSBURY:

Q. Mackerel always reach the country in barrels. Are they put up in this market in that shape, or is that done by the dealers to whom you make your consignments?—A. They are put up by the dealers to whom we sell. Country dealers are generally supplied with barrels and half barrels. They will order cod, mackerel, halibut, and bluefish all in one package, and then they are put up in barrels. We ship 90 per cent. of our stock in cases, about 500 pounds to the case, because we ship altogether by wholesale. The fish are put up iced in boxes and shipped as freight. We use in our store from 35 to 50 tons of ice per week during the summer season in which to pack those fish.

TESTIMONY OF CHARLES W. WRIGHTINGTON.

BOSTON, MASS., *September 30, 1886.*

CHARLES W. WRIGHTINGTON sworn and examined.

The WITNESS. I want to say at the beginning that I come here very reluctantly, but under special pressure on the part of Mr. Merritt. I have felt in my mind that it is perfectly useless for me to attempt to influence the thing the other way, for it has seemed to me just as if the whole trend was in a direction against reciprocity, whereas I am in favor of it. We sent on a committee from Boston to Washington, but it seemed to me as if it were a useless thing to do, in consideration of the way that committee were met at Washington. So that I have found myself lost in that position where it would seem that the only way out was to have some difficulty or some trouble come up, and then it would find its own solution. I certainly am in favor of doing justice to all people who are interested in vessels; but it has seemed to me all the time that if they were to be protected they ought to be protected in some other way, any other way could be devised. If I were interested in vessels I suppose I should say that because other people are protected I ought to be protected.

By Senator EDMUNDS:

Question. Will you be good enough to tell us where you live?—Answer. I live in Brookline, Mass.

Q. And you are in business in Boston?—A. Yes, sir.

Q. What is your age?—A. I am 47.

Q. What is your occupation?—A. In the wholesale fish and canned-fish business.

Q. Salt, or fresh fish?—A. Salt.

Q. What classes of fish do you deal in?—A. Every variety of salt-water fish.

Q. And canned fish?—A. Yes. Of course those are fresh fish, and the others are cured fish. I deal in no fresh fish except canned fresh

CANNED FISH.

Q. Where do your supplies come from mostly?—A. The bulk of what we use are domestic fish.

Q. What kinds of fish?—A. Codfish, haddock, mackerel, herrings, hake, halibut, and salmon—almost every variety of fish.

Q. Are all these kinds canned as well as cured with salt?—A. No, sir; the principal fish which are canned and canned here are fresh mackerel; fresh mackerel is about the only fish we get canned here. Of course, we can them in a great many different forms.

Q. For the domestic mackerel—that is, those taken in American waters or off American shores—what is the mackerel season when your fish come in to be canned?—A. The vessels sail southward, generally along in March or April, for the fishing grounds, and they bring them in in the early part of the season, generally to New York and some times to Philadelphia.

Q. What time does the fishing season begin that brings fresh mackerel here to you to be canned?—A. Some seasons we have mackerel brought from New York along in April, I should think.

Q. Unladen at New York and shipped here?—A. Yes; and then as the fish come farther along on our coast we get them in Boston direct.

Q. What is about the usual size of mackerel that are canned?—A. Generally the small mackerel, mackerel that would be classed as medium No. 3.

Q. How long are they?—A. From 10 to 11 inches, perhaps.

Q. And that is the chief canned fish?—A. That is small mackerel. Of course, we do can other mackerel when they are selling at a price that will enable us to do so. Last year when mackerel were so plentiful on our coast we canned larger mackerel.

Q. Do you can them yourselves?—A. Yes, sir.

Q. Do you put up cargoes or catches from what may be called British waters, off the North American coast?—A. You know we are obliged to have fish fresh, so that we are dependent upon near-by places of getting fish in order to really have them fresh enough. For canning purposes we have to have them fresh, although now that they have this steamer they can bring fish from the British waters in time.

Q. By "this steamer" you mean the Novelty?—A. Yes; there have been fresh fish canned this year that have come from Nova Scotia.

Q. But all the canned fish of the mackerel kind are the small fish are they not?—A. Yes, generally, you can say that, with some exceptions.

FREE FISH.

Q. Then how does the question of free Canadian fresh fish affect your interests or the interests of those with whom you deal?—A. It may affect us somewhat in our sale of these American sardines. We furnish capital to some of these factories along the coast of Maine, and take mortgages on them.

Q. But I am now on the mackerel question.—A. On the mackerel question, I should not think the matter of free fish would affect us very much.

SARDINES.

Q. And what do you say about the sardine business?—A. The factories engaged in the sardine business, you understand, are up along the coast of Maine, at Eastport, Jonesport, and along in that section.

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Those fish come to us already canned. We simply act as agents for the people down there, and sell on commission.

Q. And they are always the small herring?—A. Yes; the small herring.

Q. Never the small menhaden or other kinds of fish?—A. No, sir; I understand not.

Q. How many factories do you own along the coast of Maine or elsewhere for sardines?—A. You go down to Eastport and they seem to be innumerable; I don't know actually how many there are, but every wharf has its factory. Perhaps Mr. Frye is better posted on that subject. There are a great many factories that are putting up these herring or sardines.

By Senator FRYE:

Q. Further and further east?—A. Yes; and this way. Of course there are other factories all along the Maine coast.

SALT FISH.

By Senator EDMUNDS:

Q. Do you deal in all kinds of salt fish?—A. Yes.

Q. Where do your salted cod usually come from?—A. What we call pickle-salted come from Provincetown. I suppose you understand the distinction between dry-salted and pickle-salted; they are all cured. The dry-salted come from Gloucester, and also from Portland and along the coast of Maine; and then this year we have had cargoes of French fish cured on the island of St. Pierre.

Q. Do the most of these codfish that you deal in come from those northeastern waters?

The WITNESS. You mean from the Nova Scotia waters?

Senator EDMUNDS. Yes; and the British Provinces.

A. We have a great many fish from Nova Scotia; but, as I said before, the bulk of the fish we use are domestic fish.

Senator EDMUNDS. I am now speaking of salted fish.

The WITNESS. Well, I am speaking of salted fish.

THREE-MILE LIMIT.

Q. Do you know, from your information and your business, what proportion of the salted fish that you deal in are taken within the three-mile limit?—A. That is a question that I can't answer; I do not know. One side claims one thing and the other another; I don't know what the truth really is.

PRICE TO THE CONSUMER.

Q. How has the price of fish from the retail dealer to the consumer been affected since the termination of the treaty?—A. At present it must be very much higher, because this year the mackerel, the principal fish that have been caught, have been very small in numbers. I was in Europe six weeks, and I do not believe that there were 500 barrels of mackerel caught on our shores all the time I was away.

Q. How does the price stand as compared with two years ago?—A. On codfish—

Q. I am now asking about mackerel.—A. I should say that it must be very much higher, because the prices have more than doubled this year.

Q. What are the present prices of salted mackerel?—A. Salted mackerel would be rated somewhere in the neighborhood of \$13 to \$14 per barrel of 200 pounds.

Q. And what was the price of salted mackerel two years ago?—A. I should think somewhere in the neighborhood of \$4 or \$5, perhaps.

Q. Can you tell us what the retail price is now compared with two years ago?

The WITNESS. You mean to the consumer?

Senator EDMUNDS. Yes. I go to my grocer and call for mackerel No. 1 or extra, or whatever you call it; can you tell me what I now pay for such?

A. I don't know; I could not say.

Q. Do you know what it was two years ago?—A. No, sir; I would not know what the retail grocer or fish dealer would get for his mackerel.

Q. Then you do not know how the changed condition of things affects the consumer himself, the man who buys his fish to eat?—A. As a matter of actual knowledge I have not bought, and so do not know. But I can see that if a retail dealer cannot to-day buy mackerel from me under \$15 that I was selling last year at \$8, he must charge a higher price for it.

Q. How much of this rise in price, if any, do you think has been affected by the changed condition of things since the termination of the treaty?—A. That certainly must have had its effect; how much I do not know. You understand that this year our vessels have done little, nothing along our shores; there has been a dead fall of fish, and they have had to go away up the Bay to get their mackerel, so that it has made a large shortage in the amount of mackerel, and that has caused a very large increase in the price.

DUTY.

Q. Take the question of duty. When there is duty on salt fish, who bears that duty? Do you and the people you deal with, bear it, or the who eat the mackerel, and do they bear it all, or what part of it?—The consumer must bear it all, I should think.

Q. You think the producer of the fish does not bear any part of it?—A. If I get the fish I should say I have to charge my profit, and the man who buys from me has to charge his profit, and I should think it would all come upon the consumer.

Q. Upon the purchaser?—A. Upon the purchaser and not upon the seller. In consequence, of course, we have not suffered, because we have our prices established according to the prices we pay.

EFFECT OF THE TERMINATION OF THE TREATY.

Q. When this treaty terminated you were dealing in imported salt fish?—A. Yes; and domestic.

Q. Did the prices instantly advance after that?—A. No; they did not advance. Of course, there are other things that come in to influence you know.

Q. I understand that, but I want the fact.—A. The fact is that there was no advance; there may have been in some kinds of fish, but in general there was not, I think.

Q. Immediately after the 1st of July you paid precisely the same price that you did before?—A. I think there was a large quantity of codfish caught—

Q. I am not on the reasoning about it; I want the fact.—A. I was trying to think of the different articles, so as to answer your question. I think that, on account of other things, the prices did not advance.

Q. Who bore the difference of duty that was paid in that case?—A. I don't think the fish came; if they had come the parties in Nova Scotia would have had to bear it. Of course, we know that in the long run it must have affected the price, but in the main it was not affected, as a matter of fact.

Q. In the long run, of course, it affects some. What we want to get at from your knowledge is which side of the line was affected—whether it was the Canadian catcher and curer of fish, or whether it was the American purchaser and consumer—and one point in that would be to know whether, when the duty was put on on the 1st day of July, when the day before the price of cured codfish was so much, the wholesale price in your market advanced or receded, or what happened.—A. I think, as a matter of fact, that it did not advance because of the large stock of fish that was caught here, and those people could not send their fish here in competition unless they stood the duty, and of course they would drop out of the business if they could not.

Q. Or else they would reduce their prices and make less profits?—A. They could not afford to do that. They would have to get out of the business. But these people who desire protection certainly would feel that they would be protected with the duty on, and in the long run it must be that the consumer must pay for it. The thing would have to regulate itself in the end.

DUTY.

Q. What we are trying to find out is where, so far as you can understand it, the actual burden of the impost duty falls in this case. For ten years or so fish came in free, and now for a year and a little over they have not come in free, and somebody has had to pay the duty, and the question is whether it was the catcher of the fish and the man who cured and dried it, barreled it, and shipped it, or whether it was you, the wholesale dealer, who purchased it, and whether when you purchased it you charged the duty to the retail dealer, and so on down to the consumer, or made less profits.—A. Of course it does not come upon us, because we sell according to what we pay; so it does not come upon us. Where there is a large stock—as, for instance, of codfish at the present time—the price is not affected at present by the duty, because there is a large catch of codfish here on hand, and the price does not come on the codfish, because there is so much of it caught.

Q. The price does not advance, then the Canadian—and I take that the short one—is out of pocket 50 cents a hundred, or whatever the price is?—A. Practically they are not sending their codfish here.

Q. There has been no importation since the 1st of July, 1885?—A. I will not do to say no importation, but the present price is so low, that the Canadians have been sending only special kinds of fish, which are the what we call shore fish. The Nova Scotia shore fish are better fed than those we get here, a better class of fish, and will bring a higher price. Those are the fish we have been buying from Nova Scotia. But an ordinary Bank fish, such as we get from Provincetown, will not bring so good a price.

Q. Did the prices which you paid on these previous to the 1st of July, advance by the amount of the duty?—A. I should think so.

Q. You being a dealer, do you not know?—A. I think so. If I had a book before me I could tell just exactly what I did pay last year, but I do not remember now.

STATEMENT OF PRICES OF IMPORTED FISH.

Q. Will you be kind enough to send to us by mail, to save you any further trouble, a statement which shall show the prices you paid for each kind, by itself, of imported salt fish, between July 1, 1884, and July 1, 1885; and, secondly, on exactly the same kind of fish since the 1st of July, 1885?—A. Yes.

Q. During those years have your newspapers given daily or weekly the wholesale prices of imported fish?—A. Yes; I suppose they professed to do that. But I think you could depend better on the Boston Fish Bureau of Statistics for information in regard to prices, as shown in their annual reports.

Q. Are you a member of that bureau?—A. Yes.

Q. Could you send us those reports?—A. Yes.

RECIPROCITY.

The WITNESS. Before I leave the stand I would like to state that I want reciprocity.

Q. State why you want reciprocity, what effect you think it will have upon the country, and what you mean by it; whether reciprocity is everything, or only in fish. State in your own way.—A. I should say on fish. I think the country ought to get cheap fish, and my idea, as I have already expressed, is that the consumer must pay for the duty eventually. I believe that fish are for the poorer classes. Why, during the last two or three years, during the business depression, we have had a good business, because the fish go to the poorer classes, and I think those poorer classes have to pay the duty.

SENDING FISH TO CANADA.

We have had a trade with Canada, sending our fish into Canada from Boston, but that trade has all gone, as you may say.

Q. Where were those fish caught?—A. They were caught in our own waters; they were principally domestic fish that we sent into Canada.

Q. What is the theory of that? Why is it that we import Canadian fish and also send to them American fish? They are all the same kind of cod, mackerel, and so on?—A. We put them up in attractive shapes. We put them into boxes under attractive brands and in shapes that make them attractive to those people. They do not know how to do down there. They are getting on to it lately. Down there in Nova Scotia they are now supplying Montreal, Toronto, Hamilton, Brockville, and towns all through Canada. These people have come up here and got into our factories and discovered our methods, and have gone back there and are now supplying their own markets with fish put up somewhat after our methods. At the same time I understand that the people of Montreal are not satisfied.

RECIPROCITY.

Q. Go on with what you were stating about the whole reciprocity question as it appears to you.—A. It seems, as I stated, that the consumer would have to pay the duties on the fish. I believe that the people have a right to ask for protection, under the circumstances, because they have to pay protection prices for things that enter into the construction of their vessels. If I were in their place I suppose I should

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feel the same way. But I think this is a question with reference to which we are liable to get into trouble with a friendly power. It seems to me some other way ought to be sought for protection, which would still allow us to have reciprocity. Of course, as far as we are concerned in Boston, it must be of advantage to us, because we are more distributors of fish than we are producers; that is, we do not so much fit out vessels in Boston.

Q. The larger the source of supply you have, the better it is for your business?—A. Yes.

EARLY CATCH OF MACKEREL.

By Senator SAULSBURY:

Q. You spoke of canning mackerel. What is the effect of the early catching of fish down the coast? How does it affect the fish trade generally?—A. I think that in ordinary seasons it would be better for them not to go South to catch mackerel. In the first place, early in the season they are poor; it is their spawning season. There is always a demand, however, for the poorest fish; and of course the country gets the poorest fish in that way because of the fact that they want the cheapest thing they can get. If they did not fish South early in the season, then when the mackerel come on Northward they would be of better quality and fatter.

By Senator EDMUNDS:

Q. And more of them, I suppose?—A. I don't know that there would be more.

Q. Would there not be more if none were caught in the spring?—A. Yes. In that way you may say more of them, and the fish that would be caught and inspected would be a better class of fish, and of course the country would have the benefit of consuming better fish. If they could not get poor fish they would take these finer brands and pay the price for them, and that would create a better demand. The consumer would like a better class of fish more; he would be better pleased with the taste and quality, and he would buy more, and there would be more of it, it seems to me. I think that would be an advantage.

By Senator SAULSBURY:

Q. You say the country wants cheap fish?—A. Yes.

Q. That is, of course, the poorer classes of the country?—A. Yes.

Q. How would the abandonment of the spring fisheries affect those people in reference to the supply of fish? Would they buy the dearer fish if they could not get the cheaper?—A. Of course. The past season has been unprecedented in regard to mackerel; there has been a great scarcity along our shores. Of course codfish are different. I think that in ordinary seasons we would get good fish and enough of them, especially if we had a chance of getting codfish from Nova Scotia too, because the fish from there would help. I think the advantages would be more than the disadvantages. Of course, in one way you would get cheaper fish perhaps to have the Southern fish, but I think in the long run it would be better for the country not to take those fish.

By Senator EDMUNDS:

Q. Is there as much nutrition per pound of these poor fish as per pound of good fish?—A. What makes a fish good is not size but quality. A fish 11 inches long may be better than one 15 inches long, because the larger fish when dressed may all dry up.

By Senator SAULSBURY:

Q. Is the price of these spring fish as dear to the consumer as of the better fish which are put up later in the season?—A. The fish are generally very cheap. They often catch large quantities of them. There are thousands, I was going to say—yes, there must be thousands—barrels that are thrown away because they cannot get price enough for them really to pay for the trouble in getting them.

Q. Then I understand you to mean that the spring fish are sold at cheaper rates than the fish caught later in the season?—A. Yes, sir. Of course, that might not be; it might be that there would be so few caught then that they would bring a higher price.

By Senator FRYE:

Q. Do you think that any fish that is bearing spawn is good to eat?—A. It don't seem so to me. The herring that come to our shores are poor; we do not get any fine ones except those that come from Nova Scotia and that section.

TESTIMONY OF THOMAS A. RICH.

BOSTON, MASS., September 30, 1886.

THOMAS A. RICH sworn and examined.

By Senator EDMUNDS:

Question. You reside in Boston?—Answer. Yes, sir.

Q. What is your occupation?—A. Fish business.

Q. What is your age?—A. Fifty-nine.

Q. How long have you been in the fish business here?—A. Since 1848.

Q. Do you deal in both salt and fresh fish?—A. No, sir; salt fish together.

Q. Do you deal in all varieties of salt fish?—A. About all.

Q. Where do the fish you deal in come from chiefly? Where are they caught and cured?—A. They come from New England and Nova Scotia.

Q. About what proportion comes from Nova Scotian waters?—That I cannot say.

By Senator FRYE:

Q. What do you mean by "Nova Scotian waters"—within the three mile shore line?—A. Oh, no; I mean the Northern waters. The statistics show, I believe, that 4 per cent. of mackerel were taken in Nova Scotian waters.

EFFECT OF THE ABROGATION OF THE TREATY OF 1870.

By Senator EDMUNDS:

Q. Can you tell us what has been the effect of the abrogation of the treaty of 1870 on the price of salted fish in this market?—A. As a general thing, I do not think it has had any effect at all.

Q. What becomes of the question of duty that has had to be paid since?—A. I think the duty is borne by the Nova Scotians entirely. I think there is no question about it.

Q. What makes you think so?—A. For many reasons. The price is governed by supply and demand, largely by supply. There may be

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two kinds are possibly affected by the duty, but I do not believe that any one kind is affected to the extent of the duty. Neither do I believe, as Mr. Wrightington has stated, that the consumer pays the duty. The consumer buys of the retailer, and the price of the retailer varies very little. There is one case that I have cited a number of times which illustrates it as well as any. Last season there was a customer of ours in Baltimore who made the inquiry particularly with this object in view in regard to retailing. Among other articles she sold—I say “she,” because she is a woman—were a great many of No. 2 shore mackerel, which she sold, I think, for 25 cents; 320 mackerel in a barrel is \$40 a barrel. Now, it makes no difference to her in her retail business whether she pays \$6 a barrel or \$12, for \$40 a barrel will cover all the profit she wants. It is just about the same with every other kind of fish that is retailed.

EFFECT OF WHOLESALE PRICES UPON RETAIL.

When I was in Washington last spring with the committee from Boston, before the committee of the House, there was a gentleman present, I think he was a Western Senator, talking about cheap fish. Said he, I cannot understand this cry about cheap fish. Here we have had cheap fish for years, and yet I find when I go to market in the West to buy fish for my family, the cheapest thing is a herring for my servant girls, and that is 12½ cents a pound, and I want to know where the cheapness comes in.” That illustrates what I said before—that the wholesale price of fish has very little to do with the retail price. The retail fish business is peculiar; in fact, it is all retail to the consumer for the reason that it is largely used only on certain days. That practice has come to us from Europe. With all Catholics over here Friday is fish-day, and there is always some kind of fish on the table; and every one who has gone to sea knows that it is the same on shipboard. For that reason, as a general thing, fish do not enter into daily consumption as many other kinds of food do. So that it comes to this: that the retail dealers have only two or three days in the week when they sell many fish. This tends to make the retail price of fish excessive, more so, I think, than any other kind of goods. And it is invariably so. I know one retail fish dealer on a street close by the Tremont House, whose price for halibut is 25 cents, year in and year out, no matter whether he pays 3 or 30.

Q. He takes his average?—A. He takes his average. I have looked into that thing with some care, and I do not believe that the duty affects the consumer except, as I say, once in a while on some particular article it may affect the price to the consumer slightly, but not to the amount of the duty.

SALT FISH.

Q. Do you buy these salt fish, that you deal in, directly from the vessels that bring them in, or do you buy from dealers in the provinces?—A. The imported fish come here principally to commission merchants, in fact you might say all of them. The opposition to the duty on fish made in Boston principally by commission men and dealers and their friends.

CORRECTION OF MR. WRIGHTINGTON'S TESTIMONY.

Right here I would say that Mr. Wrightington made the remark that he was interested in vessels, supposing that what he said was true. But

he did not know; I am not. During the time of free fish we had 15 or 18 vessels; quite a number of them we owned. We sold them all, and to-day we have not a thousand dollars interest in any vessel.

RECIPROCITY.

But my opposition to reciprocity is that it is ruinous to the fish business of New England. You gentlemen can be but little aware how delicate a question that is to the fishermen of the coast—not the larger fishermen. But I will say that there are thousands of families from Block Island to Eastport, living on the islands and inlets to the coast, that never see \$200 in a year, and many of them never see \$150. But, with a little garden spot and with the fish that they can catch and sell and consume, they will give their children a good school education, dress them decently and comfortably, and this reciprocity question is a serious one to them. Mr. Wrightington has said that they ought to be protected in some way. That is a very strong admission. I do not think any opposer of reciprocity could make any stronger argument against it than that. They must be protected in some other way, says Mr. Wrightington. This is a serious matter to these families living on a small competence, as I have described.

Q. You call it a serious matter to them. The inference is that with either salt or fresh fish they are not able to get the same prices for the fish that they catch and sell to the wholesale dealers that they otherwise would?—A. That is it, generally.

Q. Of course, they would not care if they got the same price for their fish?—A. It is not a market for their fish, but if that market is supplied even at the same price they cannot afford to go out.

Q. If it is supplied at the same price, and all the fish they bring are purchased, then what would you say?—A. But that is not always the case. Last spring the fish were rushed into market and left over on Nova Scotia account, a great many of them; I mean mackerel. And more mackerel was sent here before the duty was put on than Mr. Wrightington has sold together with what are on hand now in this city. I have bought them as low as \$2.50 a barrel.

Q. The salted imported fish you buy, do you purchase through commission houses here, or by correspondence?—A. By correspondence almost entirely.

Q. And they are the agents of dealers in the Provinces or agents of fishing vessels?—A. No; they are agents of merchants and vessel owners both, and in some instances of catchers largely of both mackerel and codfish.

THE INSHORE FISHERIES.

Q. I presume you have not much knowledge on the subject of the source of this supply that comes in to you, whether it is taken inshore as I call it, or outside of the municipal lines of the British Provinces?

The WITNESS. You mean fish caught by Americans?

Senator EDMUNDS. No; these imported fish.

A. No, I think the imported fish are largely caught on the Grand Banks and other banks outside where our vessels go. I know, as I know anything that is told me, that they come from the Grand Banks from the Western Bank, St. Peter's Bank, and other banks up in the region.

Q. What portion of the salted fish that you get from American vessels and dealers do you think comes from the inshore fisheries?

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The WITNESS. The Nova Scotia shore?

Senator EDMUNDS. Yes; and all along the British Provinces.

A. I should say not any.

Q. Substantially not any at all?—A. Yes. I don't know how close inshore the fish are caught in Labrador.

Senator EDMUNDS. It is not very close, for the coast is dangerous.

The WITNESS. Fish are caught on the fishing banks; there are their haunts. There are a few fish caught near inshore all along the coast from Hatteras as far north as you please to go.

Q. That is a small proportion of the catch, you think?—A. Yes.

BAIT.

Q. Have you any information on the subject of the supply of bait and of the desirability of getting it within the British Provinces?—A. Only general knowledge, but my opinion is that we had better be without that privilege than to have anything like reciprocity.

Q. How could they get their bait?—A. They could take it with them or catch it on the banks.

Q. Do you think bait enough could be caught on those shores, together with what they could take from here?—A. Yes; why not? There are different kinds of bait. Vessels formerly took salt mackerel, and they took clams. Of late years, however, they think fresh bait is better, and I suppose it is.

Q. The mackerel are taken almost entirely in purse seines, are they not?—A. Yes. But even if the subject of bait arises, and all is admitted that they assume, it always seems to me that the seller is the party chiefly concerned, more than the buyer generally in trade. If the bait is bought from the poor people on the coast I do not see but that they receive as much benefit from it as we do. I cannot see that the bait question, even if it is all that they claim, is any better for us than for them.

SALT FISH.

Q. How many tons of all kinds of salted fish do you deal in in a year?—A. I could not tell that.

Q. State the gross amount in round numbers.—A. I do not know what it would amount to; it would be a mere guess.

Q. Is it very considerable, or very little—that is the object of my inquiry. We do not want to pry into your private affairs.—A. It is a large amount.

Q. Where do you sell your fish that you deal in?

The WITNESS. Where do they go?

Senator EDMUNDS. Yes.

A. All over the United States, the West Indies, and Cuba.

Q. What kind of salted fish come to this market to the greatest extent?—A. Mackerel enter largely, I should say.

Q. Are there more tons of mackerel than of codfish, or haddock, or halibut?—A. I should say so, now; it must be the case; though when prices come along they often surprise us.

Q. And the mackerel are substantially now all taken in nets?—A. In some.

BAIT.

Q. So that, as you understand it, as to the largest proportion of the catching, or at least in one kind of fishing, the bait question would not arise at all?—A. No, sir.

Q. Because they do not use bait?—**A.** I should say that it does come in a little, because they want bait from us; they have been to Portland this year and bought thousands of barrels of bait.

Q. But not for mackerel?—**A.** I think they used it for both mackerel and codfish, but principally for codfish.

INTERNATIONAL TROUBLES.

The WITNESS. I would like, if there is no objection, to make some reply to what has been said by Mr. Wrightington.

Senator EDMUNDS. State anything you wish.

The WITNESS. I took some notes of Mr. Wrightington's remarks; he says "I was rather glad that trouble came up."

Mr. WRIGHTINGTON. No, you misunderstood me entirely; I am very sorry that any troubles have come up.

The WITNESS. I understood you to say that you were glad that troubles came up to settle this matter.

Mr. WRIGHTINGTON. Oh, no; I said that the only way that we seemed to be able to get at any settlement of it was just from the troubles.

The WITNESS. That is a little milder way of putting it.

Mr. WRIGHTINGTON. That is the way I did put it.

The WITNESS. Then I will assume that.

Senator EDMUNDS. Yes; that is what he said.

Mr. WRIGHTINGTON. It was perfectly useless to talk about the thing on any other basis. I said that it seemed to me that the committee that went to Washington were treated in such a way that it appeared to me that the thing was all cut and dried the other way, and that it was only other troubles to come, and which we knew must come, that would bring the matter under discussion in a way to settle it. That was my idea.

The WITNESS. I think that parties here know that they were going, and I have no doubt egged it on.

Senator EDMUNDS. Never mind about that; that is of no consequence. Any considerations you wish to present on the general question we shall be glad to hear.

PREMATURE MACKEREL FISHING.

The WITNESS. There is one question that I take considerable interest in, and have, and that is this southern fishing question, which I am glad to see Mr. Wrightington and I agree upon.

Senator EDMUNDS. I forgot to ask you about that. I would like your views upon that question.

The WITNESS. He says he canned those mackerel. They are a very poor fish. He would not eat them, and neither would you or I. The premature catching of mackerel is a question that is going to be presented to Congress, and I think it will enter somewhat into the consideration of the reciprocity question. When I was at Washington I stated to the committee that it had been said, rather jocosely, that the menhaden left the coast because of the restrictions that had been put upon them, and that it would probably be so with the mackerel. I stated that menhaden were becoming so scarce on the Maine coast that parties interested were taking measures to remedy the difficulty, and that a law had been passed by the Maine legislature looking in that direction, but that it was too late, I said. I stated that what we wanted to do in regard to this southern fishing was to stop that before we were also too late on the mackerel question, and that from the outlook at the

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time, which was in the spring, I began to fear that we were a little late as it was. The result has shown that we are too late, that is, to prevent the thing. The thing has happened. The mackerel coming on our coast have been taken and driven away. Some Senator asked me if the ocean was not wide, wide enough for them to go to another point when driven from one place. That may be when the fish are feeding, but not when they go to the spawning grounds. They have regular spawning grounds, which are narrow and restricted, and if they are driven or frightened from there, the number continues to get less and less every year, and finally they cease altogether. This is the bearing that it has upon the questions before you: that it drives away the fish from our shore. It does not affect the Nova Scotia catch so much, for the reason that, so far as is known, the bodies of mackerel on the whole Atlantic coast do not come up by Hatteras and Block Island and along our shore, but they come in as far down as Sable Island at about the same time they strike in here. So it is thought, and it is generally believed, that there are bodies of mackerel north in the edge of the Gulf stream during the winter, where the water is warm, because they strike in on the southern coast at the same time they do here. But there is no question about that school that we depend upon, nor when or how they will come. The time of their coming hardly varies three days year after year at Cape Cod.

Q. Where do you think they come from?—A. From the south; how far south we do not know.

Q. Do you think as far south as Hatteras?—A. Oh yes, because they are caught there, and they have been followed up.

Q. The fishing fleet that begins at Hatteras follows the school northward along the coast until they get up around Cape Cod?—A. Yes, and come into our bay. There is a school that first strikes Cape Cod that does not come into our bay usually. That strikes the Nova Scotia shore at about Barrington. But as regards the southern fishing it can be shown conclusively that that enters into this question before you to-day, that it is driving the fish away from our coast and putting us more and more into the hands of the Nova Scotia people.

Senator EDMUNDS. But you must consider that the coast of the Carolinas about Hatteras is as much our coast as the coast of Massachusetts Bay; so that would not seem to be much of a point.

The WITNESS. I do not understand you exactly.

Senator EDMUNDS. You say that the catching of these fish down at Cape Hatteras so early prevents their coming up to Cape Cod.

The WITNESS. Yes.

Senator EDMUNDS. What if it does? The fish that are caught there are used by our people.

The WITNESS. In the first place, they are good for nothing.

Senator EDMUNDS. That is another question.

The WITNESS. And in the next place it prevents the fish coming in here in the summer time when they are feeding, and when they would be good fish. The case is so plain to me that it may be that I do not elaborate it sufficiently. The proposed law restricting the catch of fish names the 1st of June as the limit. As far as I am concerned I should have preferred the 1st of July as the limit. The argument was brought up by Mr. Miller, of New York, before the committee, and also by Mr. Benjamin, that we were very anxious to have them stop catching until the 1st of June, and then we could catch them in June when we knew that they had not all spawned and were equally poor. But I should have preferred to have the close season up to the 1st of July.

Q. Are they good for anything immediately after they have got through spawning?—A. They recover in ten days so as to be quite passable.

SPAWNING SEASON OF MACKEREL.

Q. About when is the spawning season?—A. About the last of June.

Q. When they are engaged in the performance of that function they are not within reach of the nets?—A. Not when they are spawning; they are then usually on the bottom.

PRICE, QUALITY, AND QUALITY OF MACKEREL.

Mr. Wrightington said that he thought that mackerel were high on account of the duty, and that two or three years ago they were \$4 or \$5 lower. If I had the tables here you would see that two years ago we had a very large catch of very poor mackerel, and there was not a demand for so many of so poor a quality. That was what affected the price largely. At the same time it cannot be denied that the scarcity of fish this year has been an element in determining prices, although the prices are not excessive. The rise that has taken place in the last six or eight weeks is not altogether by any means owing to the scarcity so much as to the quality. The quality has improved, and therefore the price has also improved; at the same time it is improved some on account of the scarcity.

Q. Do you think the general quality for this whole fishing season has been better than that of two years ago?—A. The general quality has been, although some were a great deal better and some a great deal poorer than this year so far. The best mackerel are caught on our coast when we catch any, and we have always caught a before this year. The Nova Scotia mackerel are not particularly good fish this season; they are of fair quality but nothing remarkable.

Q. How late are the mackerel caught on this coast?—A. I have known them to be here until the middle of September, though sometimes they leave in the latter part of October.

Q. There are great quantities down about Vineyard Sound and Gay Head?—A. Yes; small mackerel.

Q. Following immense shoals of herring?—A. Yes.

Q. Please give us the various names that you give to the different kinds of mackerel, and the different numbers, describing the quality of each kind, from the poorest to the best.—A. The inspection law of Massachusetts—like all laws, it is rather ambiguous—speaks of No. 1 mackerel, the best mackerel, that are 13 inches and over; those are the best and fattest. No. 2 is the next quality of fat mackerel, and that is from 11 to 13 inches. The next lower quality is No. 3, from 10 to 11 inches. And the rest are No. 4's. I don't think that the law of Massachusetts specifies any other kinds.

Q. Except Nos. 1, 2, 3, and 4?—A. Yes.

Q. And No. 4's are all below 11?—A. No; below 10.

Q. Does that grade really, in the trade or under the law, come down to mere tinkers, as you call them?—A. Yes, sir.

Q. All below 10 inches are tinkers?—A. Yes, sir.

Q. As a fact, do they pack in salt a fish that is under 8 inches long?—A. I have seen them pretty small. I have had them this year 1,400 a barrel. Now, as to the trade. There are many qualities of mackerel more so than of any other fish, I think. The trade has an extra mess

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a bloater mess, a large mess, and then a mess. Then they have a bloater No. 1, and extra large No. 1, and an extra No. 1; and then they have extra No. 2's, shore No. 2's, and bay No. 2's.

Q. No. 2 is poorer than No. 1?—A. Not always; it may often be only difference in size, the quality being the same. Then there are medium No. 3's, and small 3's, tinkers, and No. 4's; then there are large 3's, large mediums, and large 2's. It takes all those distinctions to meet the demand that is made. Two or three years ago, under free trade, large 3's were sold to go to Hayti for \$11 and \$12 a barrel.

Q. How large would those fish be?—A. Thirteen inches and over. Afterwards the smaller fish were more abundant, in this time that Mr. Wrightington speaks of, and those were rather preferred, so they do not like large 3's now.

DUTY ON FISH.

Under reciprocity, those large 3's sold for \$11 and \$12 a barrel; while now, under duty, they are selling for \$8.50. So that I do not see that the duty has affected those much. It is only three years ago that they sold for \$11 and \$12.

Mr. WRIGHTINGTON. Of course, the quantity has something to do with it, as well as the demand. I claim that this must be so.

The WITNESS. Now, he says that Nova Scotia people will have to go out of the business. Excuse me for quoting Mr. Wrightington. If duty is going to drive the Nova Scotia people out of the business, who live much more cheaply than our people can, what is going to result to our fishermen if we have free trade? It seems to me that we shall suffer as much under free trade certainly as Nova Scotia will under the duty. I do not see how he can argue any differently.

Mr. WRIGHTINGTON. With a large supply of fish, of course, until things get regulated all around, those people must get a low price; but eventually, of course, they must get a fair price, and we must get a fair price. The business must regulate itself on the basis of supply and demand. People will not go for fish unless there is a fair price awaiting them on their return. The ability of the West India market to consume fish affects our market, and the low price of fish has a bearing on the ability of those people to use these Nova Scotia fish.

Senator EDMUNDS. Has either of you gentlemen been down on the fishing coast of the British Provinces?

Mr. WRIGHTINGTON and Mr. RICH. No.

The WITNESS. I do not think Mr. Wrightington has answered this question in regard to the relative effects of duty and free trade to my satisfaction, but that is not for me to say.

CODFISH.

As Mr. Wrightington states, codfish were never sold so cheap as they are now.

FISH IN BOND.

There is one question that arises there, in regard to fish in bond. The construction put upon it by the Department is different from what it was a few years ago. Formerly we were allowed to pack codfish in bond, as also mackerel and alloways, although they came in bulk. If I recollect aright, the theory is that they can be put into packages, when required, for immediate preservation. The English Government always construes the law in favor of the merchant; our Government

sometimes, nearly always, seems to construe the law against us. We were formerly allowed to pack codfish and other kinds in packages, where they came in bulk, for shipment in bond; but for the last few years that has been stopped. It has resulted in this: that the Nova Scotia people send their fish here in bond packed for shipment. That can be done. But they are very unreliable. In fact, all Nova Scotia packages are unreliable—codfish, mackerel, and herring. If the labor question enters into it, they get all the labor and get paid for it, and we get nothing; it simply passes through our hands. Whether any change will be made in that respect, I do not know. It does not seem to me that it would affect our fishing interests here at all.

NOVA SCOTIA PACKING.

Q. What do you mean when you say that the Nova Scotia packing is unreliable?—A. I mean that no kind of fish that Nova Scotia puts up can be relied upon without a thorough examination.

Q. Relied upon how?—A. As to the quality and kind. I have seen a thousand barrels of herring landed here, and sold at one time, that had 300 barrels of them half full of eel grass, paving stones, &c. I have also had packages that were all right at each end, but were filled up with eel grass and the like in the middle.

Q. Do you open and repack these Nova Scotia packages before you put them upon the market?—A. Yes, as a general thing, or else we examine them thoroughly.

HERRING.

In the matter of herring, it is true that the herring we have on these shores are not fat; neither are the majority of Nova Scotia herring fat. We take nothing on these shores as poor as Georges Bay herring or Dalhousie; they are the poorest that can be put up.

Q. Do herring enter largely into the consumption of the United States?—A. Yes; quite largely.

Q. They are consumed chiefly in the large cities?—A. Yes.

Q. They do not get into the country stores?—A. They are consumed chiefly in the large cities, but they are sold all over the country; they are sold largely in Virginia and North Carolina and the West.

Q. Are they smoked?—A. O, no; pickled. They are sold largely in the extreme Northwest; also among the Norwegians, who have been accustomed to use herring at home. The best herring we get here is the Labrador herring, and their shore splits are very good.

Q. Did the price of Labrador herring rise immediately after the termination of the treaty?—A. They were never so low as this last winter and spring; they were very low. Here is the same argument as in the other matter, and that is there was an excessive catch, a very excessive one; they were sent here in large quantities, and the party who managed the business managed it very unskillfully. They sent not only large quantities to the commission men, but to the men that like to make a large outlay, and consequently they damaged themselves and us, too. This season the Labrador catch so far has been an entire failure. I have not heard up to this day of a barrel of herring being caught on the Labrador coast. There were a few brought in yesterday that were caught on the other side of the Straits; consequently, the being none to speak of they are high. They are worth \$6 a barrel, instead of a year ago at this time, I should say, \$4 or \$4.50.

Q. Then the \$6 a barrel much as it is?—
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Q. That is, a barrel of 200 pounds?—A. Yes; but the duty was on them the same as now; and yet to-day Labrador herring would sell for \$6 a barrel, just because they are scarce; they would sell for just as much as if they were free.

Q. Do you not think that your fish bureau tables will show all these prices?—A. I think so.

Mr. WRIGHTINGTON. I think so.

STATISTICS.

Q. As a matter of information, we would like you to send us reports for three or four years, in order to get a general average.—A. If you go to Gloucester, there is also a fish bureau there, and you can compare our figures with theirs. I think those for Boston, however, will give closer prices.

CLOSE TIME.

By Senator SAULSBURY:

Q. You refer to the spring catch of mackerel, and I understand you are in favor of restricting that?—A. Yes; I am, decidedly.

Q. They are caught on the Southern coast, from Hatteras northward?—A. Yes, sir.

Q. How long do the mackerel remain on the Southern coast?—A. We do not know where they go in the winter season. They leave these waters about the last of October, their leaving depending to some extent upon their feed, or, as Professor Baird says, the temperature of the water, or both. They leave from the last of October to the middle of December, which is very late.

Senator EDMUNDS. Mr. Saulsbury was asking you about the Southern coast.

The WITNESS. They leave here and go down the Southern coast and up by Hatteras, and we do not hear of them again until the next season.

Q. (By Senator SAULSBURY.) How long last does the fishing last on the Southern coast?—A. About the last of March they are found off Hatteras, and are followed by our vessels up the coast, getting up off New York the last of April or the first of May, and around into Massachusetts Bay by the middle of June. So they last about two months from Hatteras to Block Island.

Q. If these fishermen be deprived of the opportunity of catching fish during those seasons of the year, what other opportunity would they have?

The WITNESS. What fishermen?

Senator SAULSBURY. The men engaged there.

The WITNESS. By asking you a question I only want to get at what you want.

Q. You do not know where the fishermen are from, who are engaged in those fisheries?—A. I am not aware that there are any fishermen on that coast. There are a few fishermen on the Jersey coast who fish in boats.

SEINE vs. HOOK AND LINE.

Now, I do not object to catching any of these mackerel with hook and line. It is catching them with deep-sea seines to which I object. With these seines you surround a body of mackerel of, may be, 500 or 800 barrels; of those 500 or 800 barrels 200 or 300 are saved, and the rest

are thrown away; those 200 or 300 barrels are brought in and half of them spoil and are thrown away. When I was before the committee in Washington the bill under consideration, I think, allowed fishing in row-boats on the New Jersey shore with hook and line of perhaps 25 feet. The Senator from New Jersey asked if I had any objection to hook and line. I said no, not if people chose to catch the fish that way and eat them, but what I did object to was going down there with seines, and the reason I gave was that the seines frightened the fish and drove them away when they were on their way to their spawning grounds. The large vessels fishing with hook and line have bait ground as fine as can be, and that is thrown overboard and they fish alongside. The fish in that case are fat, and if anybody chooses to so catch them I have no objection. As our people here in New England and in the North are the only ones who fish exclusively with seines, I do not think I am asking anything against any one South. I have said that our people are the only ones who fish exclusively with seines; I should make one solitary exception; he is in New York; and he is opposed to Southern fishing. Under these circumstances I do not think I am asking anything against any one in the South. Do you think I am?

Senator SAULSBURY. I do not know, of course, where these fishermen live. I simply desire to know whether the fishermen who desire to fish on these shores would have any opportunity to catch on these shores again.

The WITNESS. Yes; every opportunity with hook and line.

Q. I understood you to say that these fish are on that shore from March to the first of May?—A. Yes; and off Block Island there is a seine that stays set all summer. It is not only the destruction of the fish and driving them away to which I object, but it is also our own fishing with seines that I wish to prevent.

Q. I suppose if there was a market down there the fishermen would have seines, and many have them already?—A. From my knowledge of the business I should not suppose they would.

By Senator FRYE:

Q. It is a pretty expensive business?—A. Yes, sir.

By Senator SAULSBURY:

Q. If the men down South found it profitable, they would go into the business?—A. This is no shore fishing, you understand. This deep-sea fishing requires large vessels and an expensive outfit. A vessel's outfit would cost from \$10,000 to \$18,000. It is too precarious, and it has been called a lottery.

UNCERTAINTY OF DEEP-SEA FISHING.

Gloucester has within the last two years lost, in provisions, vessels and boats, several hundred thousand dollars in Southern fishing. But once in a while one vessel will make a good stock. It is like a lottery—one loses and another makes a fortune.

THE QUESTION OF LOCALITY.

There is nothing against any locality that would enter into the case on one particle. There is no feeling among the fishermen. There is no desire to deprive any man in any locality of his rights.

Senator SAULSBURY. I was not thinking so much of the fishing interest as I was of the community who consume. I understand that

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caus of spring fish' are sold cheaper than those which are put up at a later season, and are better fish. If, therefore, you take away the privilege of a certain class of supplying poor people, the question is whether you would not deprive them of the opportunity of purchasing any fish and force them to do without.

Mr. WRIGHTINGTON. The quantity of these Southern fish canned is very small. The principal use they are put to is to salt them in barrels and packages.

Senator SAULSBURY. You mean that in that form they are sold better and at a lower figure than the fish caught at a later season?

Mr. WRIGHTINGTON. Yes, sir.

The WITNESS. I would like to ask Mr. Wrightington if the better quality of mackerel are not sold as cheap and often cheaper than the early ones. That is the case, isn't it?

Mr. WRIGHTINGTON. No; I don't know that it is. Of course, the price of fresh fish is determined to some extent by the quantity on hand, as well as by other considerations.

TESTIMONY OF EDWIN P. COOK.

PROVINCETOWN, MASS., *October 1, 1836.*

EDWIN P. COOK sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Forty-three.

Q. Where do you live?—A. Wellfleet.

Q. What is your occupation?—A. Fish dealer.

Q. What kind of fish do you deal in?—A. Mackerel, at the present time.

Q. Have you ever dealt in any other kinds?—A. I have.

Q. How long?—A. I was in the codfish business one year.

MACKEREL FISHING.

Q. Where do the mackerel come from that you deal in?—A. The shores of St. Lawrence Bay.

Q. Have any vessels from your place been up there this year?—A. Very few.

Q. Did they have much of a catch?—A. It was not a successful voyage to them this year. There was only one vessel that brought in full fare.

INSHORE FISHING.

Q. Where are the mackerel generally caught up there, in respect of the inshore line, as it is called?

The WITNESS. Where I have been in the Bay myself? Do you mean my knowledge?

Senator EDMUNDS. Yes, your knowledge, and information as well.

A. I have been up there three years. One year we caught the most of our fish off Magdalen Islands. One year our voyage was off Cape Escuminac and off Cape Prince Edward's Island.

Q. How near the shore were your catches made?—A. Within about five miles of shore. Off Escuminac we fished very near the shore.

Q. Did you fish near the shore because the fish were there, or because it was more convenient, or why?—A. The schools were there at that time, and that was the best fishing, of course.

Q. How long was that ago?—A. That was 18 years ago.

Q. You have not been up there since that time?—A. Not since.

Q. What is your information as to where our people fish up there?—A. They fish on the same grounds I have named, except Magdalen Islands; they haven't fished around there this season.

BAIT.

Q. What do you do up there for bait for mackerel, or do you fish with nets entirely?—A. We fish entirely with seines.

Q. So that the bait question is not a disturbing element?—A. No, sir.

CODFISH.

Q. Where are the codfish caught up there that you deal in?—A. I am not dealing in codfish at the present time. I believe the last I had was caught on the Grand Banks.

Q. You do not deal in codfish now?—A. No, sir; I do not.

Q. Where are most of the codfish taken that come to Provincetown?—A. I have the only vessel in the place, and the only one for some twenty-five or thirty years.

MACKEREL.

Q. Your vessels are all mackerel catchers?—A. Yes, sir.

Q. What is the character of the mackerel that you catch up there compared with those caught off our coast, in respect of quality?—A. They are not so good as our shore mackerel.

Q. What is the reason? Are they not so large or so fat?—A. They are sometimes larger, but not so white and fat as our shore mackerel.

Q. But they are precisely the same fish, I suppose?—A. Yes, sir.

FREE FISH.

Q. What is your information from all these fishermen, and what your own knowledge gained from experience in the business, in regard to the effect that the treaty of 1870 had upon your fishing interest that treaty giving the British people the right to bring in fish free?—A. I think it was ruinous to the business. It drove me out of one branch of the business entirely, and caused me to lose every dollar I had put into it.

Q. What was its effect upon the retail market, so far as you know?—A. The WITNESS. Shall I state what I sold my fish for? Senator EDMUNDS. Yes.

A. I had a fare of fish that averaged me \$2 a quintal, and from the best information in regard to the fish as I sent them into the market—that is, without being prepared, skinned or anything of the kind—the fish brought from 5 to 8 cents a pound; and the fish that I sold that was skinned and put into boxes the parties told me they got 10 to 12 cents a pound for at retail. I was selling at an average of 2 cents a pound when they cost me 3 cents a pound to catch and get them home here.

Q. The effort to understand you is to make them, but the dealers?—A. Opportunity

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Q. The effect of that treaty and the practice under it, then, if I understand you, was not to make the fish any cheaper to the people who ate them, but only to undersell you in your trade with the wholesale dealers?—A. Yes, sir; and to overstock the market and give us no opportunity to combine, as other industries of the country have done.

EXTENT OF THE FISHING BUSINESS OF PROVINCETOWN.

Q. About what quantity of fish come into your place per season?

The WITNESS. Of mackerel?

Senator EDMUNDS. Yes.

A. This year probably there will not be 4,000 barrels.

Q. Take it for ten years together, what would be the average?—A. As our fleet has been cut down nearly one-half during the last ten years, I could not give a fair estimate. During the past five years we landed about 30,000 barrels of mackerel.

Q. About what fleet have you?—A. About thirty sail.

Q. About what tonnage?—A. They will average about 70 tons apiece.

Q. How many men to the vessel?—A. From 13 to 17.

Q. Do they make more than one voyage a year usually?—A. In the mackerel business it is according to the catch. Some years we have made only one trip to the Bay shores, and come home and quit it.

SEIZURE OF THE HIGHLAND LIGHT.

Q. Have they fished in the Bay of Chaleur this year?—A. Part of the fleet.

Q. Were any of them interfered with in any way?—A. One of them has been seized.

Q. What was her name?—A. The Highland Light.

Q. Where was she, according to your information, when she was seized?—A. Off west of East Point, at a place called the Chapels, I think.

Q. In the Bay of Chaleur?—A. No; on the north side of Prince Edward's Island. The northeast point of Prince Edward's Island is called East Point.

Q. Was she seized at sea, or where?—A. She was seized, as we understand, within the three-mile limit.

Q. Have any of her officers come back here?—A. Yes, sir; her captain came home.

Q. He is not here to-day?—A. No, sir; I don't know as he is in town.

Q. Was she seized on account of fishing within the three-mile limit?

—A. She was lying to, as vessels usually do to catch mackerel on the hook, as I understand, and was throwing bait, and one of the crew was catching codfish.

Q. Is that the only vessel from your place that has been interfered with?—A. Yes, sir.

THREE-MILE LIMIT.

Q. They did not undertake to seize any of them for fishing outside of the three-mile limit in the Bay of Chaleur?—A. No, sir; they were never interrupted in their business.

Q. So you have known of no instance this year where the headland theory has been insisted upon?—A. No, sir; not a case.

AVERAGE QUANTITY OF MACKEREL TAKEN.

Q. I do not know how you answered my question—if you answered it I did not hear—as to the average quantity of mackerel taken by your fleet in ten years.—A. I said that I could not give the exact average, but there was one year that we landed in the neighborhood of 30,000, and this year 4,000. Mackerel fishing is very uneven fishing.

SALT MACKEREL.

Q. Do you bring any fresh fish from up there?—A. No, sir.
Q. All salted?—A. All salted.
Q. All salted on board, I suppose?—A. Yes, sir.

PRIVILEGE OF LANDING.

Q. You do not go ashore for any purpose except for supplies, I suppose?—A. No, sir, and they are not allowed to get those.

DUTY ON FISH.

Q. What has been the effect of the termination of the treaty last year? Do you get any better prices for your fish?—A. Last year at this time I could buy fish packed for \$6.50, or \$7 for uncultured fish. This year I have paid for the same kind of fish, uncultured, perhaps not so good, from \$13 to \$14.

Q. You say the catch is not nearly so great?—A. It has not been.

Q. Has the retail price of fish, according to your information, risen on account of this duty?—A. Yes, correspondingly. There is not so much profit made on fish this year in my business as there was last, fish being so high.

Q. I understand that. But taking the people who buy salted mackerel from the grocer in Boston or Provincetown, or anywhere, how much more, if anything, do they have to pay on account of this duty?—A. I think, in proportion to the price of the fish, the dealers are not getting so high a profit as they did last year.

Q. We understand from the dealers in Boston that the retail price to the people who actually buy the mackerel from the grocery are pretty much the same all the time; that there is a pretty large margin, as you describe, with the retail people, so that they do not follow the rise and fall of the market much?—A. I think it is more like that in the fresh-fish business; they have but one retail price for fresh codfish the year round.

CLASSIFICATION, REPACKING, AND SHIPMENT OF MACKEREL.

Q. Where do your mackerel go that come to this port?—A. New York, Boston, and Philadelphia, and some few to Baltimore.

Q. Do you take them out of barrels and repack them?—A. Yes, sir.

Q. Are they assorted at the time they are first taken on the fishing ground?—A. No, sir; they just catch them and put all sizes in one barrel.

Q. Then all the classification is done when they are repacked?—A. Yes, sir. If I buy them I recull them.

NATIONALITY OF FISHERMEN.

Q. What nationality are the people who are engaged in your fleet?—A. The captains are mostly natives of the town or of Cape Cod.

Q. What I mean is whether they are citizens of the United States, or foreigners?—A. The captains are obliged to be naturalized citizens, and most of the crews are not natives of the town; a great many are foreigners.

Q. Where do you get them?—A. We pick them up in Boston and some in Nova Scotia.

COMPENSATION OF CREWS.

Q. Are the crews paid in money, or do they receive a share of the fish?—A. They are paid in different ways. Some are paid by the thousand on the stock; that is, some are paid \$25 a thousand, some are paid one forty-fifth of the whole stock, and the remainder goes to the owner and the vessel.

DECREASE OF FISHING.

Q. Is the fishing business at your place reviving at all?—A. No, sir; it is declining every year.

Q. What is the reason for that?—A. The scarcity of fish. Previous to this year we had a winter business, which we have not now. If we still had a winter business we could weather these bad years, and get through them better than we do. Last winter was discouraging.

Q. You lost your winter business on account of the fact that there were no fish off our own coast?—A. No, sir; we never had anything to do with the Grand Bank business, but we had a run of oysters from Virginia to New York in the winter, and that is entirely gone.

Q. That is gone entirely on account of the railroads and steamships, I suppose?—A. Yes, sir.

MACKEREL SEASON.

Q. What time in the year do you begin mackerel fishing?—A. We began about the 1st of June this year.

Q. Where?—A. Off our coast.

Q. How far south?—A. I think none of the fleet went farther south than Block Island.

Q. And then they fished northward?—A. Yes; worked to the northward with the fish.

Q. What time does the mackerel season begin up in the Bay of Chaleur and in the Gulf of St. Lawrence and around there?—A. They begin to catch fish in there as early as the middle of June.

Q. And how late does it continue?—A. They fish in that vicinity for fish to can, around Cape Breton and Sydney, as late as Thanksgiving and the last of November. The shore-men catch fish there late every year.

Q. I mean the large fishing by the fleet. How late, ordinarily, would you expect to get a fare?—A. Our people usually come away about the middle of October if they spend the season in the Bay.

Q. Do they carry supplies enough to last them the whole season?—A. Yes, sir; for the trip.

Q. In an ordinary time, a fair, average fishing trip, how long would the vessel be gone from your port to make her fare and come back?—A. I have been gone on a 500-barrel trip three months, and made a successful voyage of it.

OUTFIT OF PROVISIONS.

Q. Do you ordinarily fit out your fleet with five months' provisions?—A. No, sir; three months is the longest I have known.

- Q. Is that the usual time?—A. Yes; about three months.
 Q. So that the mackerel vessels would have very little occasion to touch for supplies of food?—A. Only for fresh provisions, potatoes, and such things.
 Q. And water?—A. And water.

RECIPROCITY.

By Senator FRYE:

- Q. Do you, as a fisherman, want a treaty with Canada?
 THE WITNESS. Do you just want me to give my opinion?
 Senator FRYE. Yes.
 A. I either want a treaty of the freest sort with them, or I want the highest tariff placed upon fish, one or the other, no half-way.
 Q. Which do you prefer, high duties on fish, or a treaty which admits fish free?—A. I would take my chances with a duty on fish, so that the Canadian fish could not be brought into our market.

THREE-MILE LIMIT.

- Q. Is it any special object to you to fish for mackerel within the three-mile limits?—A. Yes, sir.
 Q. But for no other fish, of course?—A. I am not engaged in the cod-fishing.
 Q. They do not take any codfish in there, do they?—A. No, sir.
 Q. You would like the privilege of fishing within the three-mile limit?—A. I would rather have a high protective tariff, and let them have their three-mile limit.

EFFECT OF TREATIES OF 1854 AND 1870.

- Q. You spoke about the decline in your fisheries and of the cutting off of your winter business; do you know what effect the treaty of 1870 and the reciprocity treaty of 1854 had on the fishermen?—A. No, sir.

TESTIMONY OF JOHN SWETT.

PROVINCETOWN, MASS., *October 1, 1886.*

JOHN SWETT sworn and examined.

By Senator FRYE:

- Question. Where do you live?—Answer. Wellfleet.
 Q. How old are you?—A. Sixty-eight.
 Q. What is your business?—A. Grocer, at present.
 Q. Do you deal in fish?—A. No, sir.
 Q. Have you ever been a fish-dealer?—A. I haven't been a fish-dealer; I have been a fisherman for thirty years.
 Q. In what capacity?—A. From cook to captain.
 Q. What kind of fishing?—A. Mackerel fishing principally.
 Q. From what year to what year?—A. I came ashore about 1845; before that time I was engaged in fishing from the time I was a boy.
 Q. From 1845 forward you were engaged in the fishing business?
 A. From 1845 back.

Q. So that you have not been engaged in the fishing business since either of these treaties went into force?—A. Not actively, but I have lived in a fishing community, and of course have heard of everything going on.

EFFECT OF TREATIES.

Q. What, in your opinion, was the effect of those treaties upon our fishing interests?

The WITNESS. Do you speak of this last treaty of ten or twelve years' duration?

Senator FRYE. Yes.

A. It has built up the Nova Scotia fisheries to the detriment of the New England fisheries, in my opinion.

Q. Why do you say that?—A. Because, in my opinion, the duties taken off of fish gave them the same privileges into our ports that we have in theirs, and they being a people that live cheaper than ours, their vessels were built cheaper and manned cheaper. They saw that that was their chance. They could outdo us in our own markets, for the reason that their materials were cheaper. They were people that had not got up to the highest standard of living, you might say, that we in New England had. They lived coarser, and they could come in and outdo us in our markets.

Q. That is, they could afford to sell cheaper than you could afford to sell?—A. Yes, and live by it. It is probably known to you that they have built up large fishing interests in the last ten or twelve years.

EFFECT OF DUTY UPON THE CONSUMER.

Q. Do you know anything about the retail market for fish?—A. Not especially; I have a general knowledge of how it is conducted.

Q. In your opinion, would taking off the duty make the fish cheaper to the consumer? I do not mean to the wholesaler.—A. That is a hard question to answer. There are so many ways of doing things that it would be doubtful to me if they would be furnished any cheaper to the consumer. I think the business would be very apt to be so managed through the traders and dealers that they would not get their fish any cheaper.

Q. Who is the direct purchaser from the Nova Scotia fishermen; the wholesaler, is he not?—A. The wholesaler, yes, in these large ports like Boston.

Q. Both fresh and salt fish they sell to the wholesaler?—A. Yes, sir.

Q. And then the wholesaler distributes them over the country?—A. Yes, sir.

Q. And in your opinion the effect of the duty is rather upon the wholesaler than upon the retailer or consumer?—A. Yes, sir.

THE FISHING INTERESTS OF WELLFLEET.

Q. Do you know how many vessels belonging to Wellfleet are engaged in mackerel fishing?—A. I think we have about thirty sail at the present time.

Q. How many have you ever had?—A. We have had as high as eighty to one hundred. At that time they did not average so large as they do now. But our fleet is very much reduced. The low class of mackerel taken these last two or three years has made the business very unprofitable.

FREE AMERICAN MARKET.

Q. State whether or not the liberty of our market to the Canadian does not render the business a little more uncertain and hazardous than it was before?—A. It operates in this way: If there is a large catch of mackerel on the Nova Scotia shores or in the Bay of St. Lawrence, those fish are so numerous in places up and down the Nova Scotia shore that they are brought into our markets and crowd the price of our fish down from a fair remuneration to a price that is not a living one. If the catch is small in the Nova Scotia waters, our market is kept at a fair kind of rate; but just as soon as they have a large catch, the depressing effect is felt on the prices of our fish.

Q. So that the tendency is to break the market between the fishermen and the wholesaler?—A. Yes, sir; so that the fishermen cannot get a living out of the business.

REMUNERATION OF FISHERMEN.

Q. Do you know what portion of the retailer's price for fish the fisherman actually gets?—A. We will say, for instance, that a vessel comes in with a trip of mackerel of 200 barrels. The captain will sell his cargo to the wholesaler, say, for \$10. If the wholesaler can get fifty cents or a dollar above that he considers he has made a good trade. That is about the way it goes. Then after they get into the retailer's hands I don't know much about the business; they get what they can, I suppose.

Q. In your opinion does the fisherman get over two-fifths of the ultimate price of the fish?—A. I don't know as I understand the bearing of that question exactly.

Q. Suppose I pay ten cents for a mackerel, as a consumer; in your opinion does the fishermen who originally caught that mackerel get over two-fifths of that ten cents?—A. I should hardly think he did; it has to go through two or three hands.

THE REMEDY.

Q. What is your remedy for this?—A. So far as the interests of the fishermen of New England are concerned, my remedy is that they should have the control of their own market; that is to say, they should have the preference of catching fish for the United States over foreigners.

THE THREE-MILE LIMIT.

Q. Suppose they should let you go in and fish within the three-mile shore line if you let them send their fish in here free; would not that be a fair trade?—A. I don't think that would help the price of fish any for our fishermen. Our fishermen must get a certain amount for their fishing in order to make it remunerative enough to follow the business; if they can't do that they must abandon it. The supply of our market by foreigners tends to depress the market to such a low standard that our fishermen cannot survive.

Q. In your opinion is it to-day specially desirable to fish within the three-mile shore line? I do not mean measuring from headland to headland; I mean within the 3 miles, following the sinuosities of the shore.—A. I think it amounts to very little to us. As far as I have heard the reports this season, I think the fishermen say they have caught very few fish within those limits, and really there have been very few fish within those limits.

SEINE vs. HOOK AND LINE.

Q. When you fished for mackerel you fished with hook and line?—

A. Yes, sir.

Q. Do you take them with hook and line now at all?—A. No, sir.

Q. You take them with purse seines?—A. Yes, sir.

Q. As a matter of fact, is it not dangerous to our giant purse seines to fish within three miles of that rocky coast?—A. It is very dangerous; the seines are apt to be torn badly.

Q. Do you know what those purse seines cost?—A. They cost from \$600 to \$800 or \$1,000.

Q. If they are damaged on the bottom it causes serious trouble, does it not?—A. Yes, sir; it is almost ruinous to the voyage. We had one of our vessels that went down into the Bay of St. Lawrence this season; she arrived there just in the nick of time, when mackerel were plenty. But the first time the seine was thrown they tore it all to pieces. There they were down there in the Bay of St. Lawrence without any means of procuring a voyage.

Q. As a matter of fact, has not the invention of the giant purse seine and that method of fishing entirely broken up the old system of fishing?—A. Yes, sir.

Q. And it has taken away the usefulness of fishing within the three-mile shore-line off the Canada coast?—A. It has really, in my opinion.

CLOSE TIME.

Q. Our fishermen, as I understand it, start early in March down on the North Carolina coast, and use their seines from there northward.—A. Yes, sir. Probably it is known to you that there have been but very few mackerel caught on the New England or Southern coast this season. We attribute it in a great measure to casting so many of these seines early in the season down on the Southern coast. That has a tendency to turn the mackerel farther from the coast, and in consequence they have been driven down into the Bay of St. Lawrence.

Q. Your opinion is that there should be a close time on mackerel?—A. I think so.

Q. From March to June?—A. That is their spawning season. The theory is that where fish spawn there they are likely to return.

SPAWNING SEASON.

Q. I suppose that you do not regard mackerel as good in the spawning season?—A. No, sir; they are very poor.

Q. What time do you think they get through spawning?—A. In the month of June they are pretty well through.

Q. When they are really spawning they are on the bottom, are they not?—A. That is a question I can't answer.

Q. You do not ordinarily take many mackerel from the first of June to the first of July?—A. Well, yes; considerable many. Some seasons not so many. They are then considered to be about on the coast of Maine.

BAIT.

Q. How do you regard the importance of buying bait in the Canadian waters?—A. That seems to me to be a privilege that ought not to be denied.

Q. How important is it to you?—**A.** It is more important to the cod-fishers than to the mackerel-men.

Q. I am talking now about cod-fishing.—**A.** I am not really prepared to answer that question. These Provincetown people can answer that question better.

DUTY ON FISH.

By Senator SAULSBURY:

Q. I understand you to say that your opinion is that the American fisherman ought to have and control the American market for fish?—**A.** That seems to me to be reasonable.

Q. This year, you say, there has been a very small catch of fish on our coast?—**A.** Yes, sir.

Q. What would be the effect upon the demand for fish if the Canadian fishermen were prohibited from selling here by such a tariff that they could not afford to do it?—**A.** You see that it has operated very favorably for the Canadians this season. The scarcity of mackerel on our own coast has caused the price of mackerel to be quite high. Therefore the Canadians have been able to pay the duties and bring their mackerel into our market and realize a fair remuneration. If the fish had been plenty on our coast this season they could not have done such a thing; nor, if the prices had been low, could they have afforded to pay duties; it would not have afforded them a living remuneration.

Q. I want to inquire whether you think that the catch of fish in our waters would be sufficient to supply the demand of the country at all seasons for mackerel?—**A.** Well, I don't know about that, I am sure. Of course we shouldn't have so many fish as we should if the foreigners were allowed to bring them in.

Q. And that would necessarily enhance the price of the fish?—**A.** Well, yes; that would probably bring fish up to a living business for our fishermen.

MACKEREL FISHING ON OUR SOUTHERN COAST.

Q. Who are the parties that do the principal part of the fishing down on the Southern coast? Is it the Northern fishermen?—**A.** Yes, sir. Gloucester furnishes the large part of the fleet in that business; the principal part. Portland also furnishes a part.

Q. And your opinion is that that work drives the fish out so that they do not strike our coast again soon?—**A.** Yes, sir; that is one theory we have. Not only so, but we think that destroying so many mackerel when they are full of spawn has a tendency to diminish the quantity of fish.

TESTIMONY OF BENJAMIN D. GIFFORD.

PROVINCETOWN, MASS., October 1, 1886.

BENJAMIN D. GIFFORD sworn and examined.

By Senator FRYE:

Question. What is your business?—**A.** Deputy collector of customs.

Q. Where?—**A.** At Chatham.

Q. How long have you been deputy collector?—**A.** For nine years.

Q. Have you statistics of the fishery fleet from your port?—**A.** I have not.

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FISHING INTEREST OF CHATHAM.

Q. Can you state generally about the fishing fleet?—A. Well, so far as this question under consideration is concerned, our fishermen come there very little.

Q. I mean how large is your fleet?—A. About twenty vessels.

Q. Was it ever any larger?—A. No, sir; not within my knowledge.

Q. Are those vessels mackerel-fishing?—A. At this season of the year, yes; but cod-fishing earlier in the season.

Q. So they carry on both kinds of fishing?—A. Yes, sir.

Q. Where do they take the cod?—A. On George's Shoals, near by.

Q. They do not take the cod within the three-mile limits, I take it?—A. No, sir.

BAIT.

Q. The codfish are taken with bait?—A. Yes, sir.

Q. What kind?—A. Clams.

Q. Where do they get their bait?—A. At home.

Q. So your fishermen from Chatham do not desire the privilege of touching in the British Provinces for bait?—A. No, sir.

MACKEREL FISHING.

Q. Where do they commence fishing for mackerel?—A. They commence on the coast and work down to Block Island, and then on down the coast of Maine a little ways.

Q. Commencing when?—A. In the middle of summer; I should think about July.

THREE-MILE LIMIT.

Q. Do they fish within the three-mile shore line?—A. No, sir.

Q. Why not?

The WITNESS. Do you mean within three miles of our own coast? Senator FRYE. No, the Canadian coast.

The WITNESS. No; they do not, because they do not go there at all. Only one of our fleet has been there this season.

Q. What was his catch?—A. He caught sixty-two barrels.

Q. Would that pay for the voyage?—A. No, sir.

SEINE FISHING.

Q. In your experience within the last ten years, since the invention of giant purse seines, is there any profit in fishing within the three-mile limits of the shore line?—A. I don't think there is. The damage that would be occasioned to the property would be sufficient, so far as I have understood, to make it unprofitable.

Q. There is great risk of damage to the seines on account of the rocks in the shoal water?—A. Yes, sir.

Q. And only one of your fishermen has been in there this last year?—A. Yes, sir; he just arrived this morning.

TREATIES.

Q. Do you know how it was when the treaty was in force?—A. They have never been in the habit of going there, to my knowledge.

Q. So that there is nothing that your fishermen of Chatham want of Canada?—A. Not anything at all.

Q. Then I take it that your opinion is that no treaty is necessary?—A. No treaty is necessary.

Q. In your judgment, what would be the effect of any treaty that would admit fish free?—A. I only gather my information from the fishermen themselves; they all say that it would make the price of fish so low that they could not remain in the business.

Q. I suppose you mean the price that the wholesaler pays to the catchers?—A. Yes, sir; what they realize.

COST OF OUTFIT.

Q. Have you any idea what it costs your fishermen for an outfit?—

A. No, sir; I don't know as I could make a very explicit answer to that. We had a new vessel built last year, which I think cost about \$7,000.

Q. What was her tonnage?—A. She was about 75 tons.

Q. Have you any knowledge of a Canadian vessel like her?—A. No, sir.

Q. Do you know the difference of cost between Canadian fishing vessels and ours?—A. I do not.

COD-FISHING.

Q. What is the length of a codfish voyage of your vessels?—A. They go out Monday morning and come in Saturday night, right along through the fishing season. They go from home off on to Nantucket Shoals.

Q. They do not fish up on the Banks?—A. No, sir; not on the Grand Banks at all.

THREE-MILE LIMIT, ETC.

Q. Do you know the length of a voyage for a fishing cruise to the Grand Banks?—A. No, sir.

Q. Is there anything special that you know about these fishery matters that you desire to state?—A. No, sir; our fishermen at Chatham were all away, and they wanted somebody to come up from Chatham, and so I undertook to come, although I don't profess to know much about it.

Q. In what you say here do you express the views of your fishermen?—A. I do, so far as I know them.

Q. The views that you have learned from them?—A. Yes, sir.

Q. Have you heard any expression of a desire on their part for the privilege of fishing within the Canadian three-mile limit?—A. They don't want that. I put down the words that the captain told me who arrived this morning. I asked him about that, and he said that the mackerel were mostly caught by the fleet this year outside of the three-mile limit, and that he caught none of his sixty-two barrels inside of that limit.

Q. That is to say, outside the three-mile limit when they were taking them off the Canadian coast?—A. Yes, sir.

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TESTIMONY OF CAPT. HENRY COOK.

PROVINCETOWN, MASS., *October 1, 1886.*

Capt. HENRY COOK sworn and examined.

By Senator FRYE:

Question. Where do you live?—Answer. Provincetown.

Q. How long have you lived here?—A. I have lived here 76 years next November.

Q. You were born here?—A. Yes, sir.

Q. What has been your business?—A. My first business was going to sea in the fishing business and in the whaling business; for the last 35 years I have staid ashore, owning a fleet of whaling and fishing vessels. I once had four whaling vessels, but Semmes took them and destroyed them. Previous to that I had some mackerel fishermen, but that business seemed to all run out. Since 1871, the commencement of the reciprocity treaty, it was not a profitable business, and I did not have many mackerel fishermen; I had only two or three, and as it was not a paying business, I took them out. Since that time I have been in the codfish business, which was a profitable business until after the beginning of the reciprocity treaty; since then it has been dying out by inches.

RECIPROCITY.

I believe we have had but one year since the beginning of the reciprocity treaty that we have made anything to speak of, and that was in 1882. I think in 1882 we averaged about \$4.50 per quintal for our fish, and we made a good, fair business; we didn't need anything better than that. But since that time and for the last three years my vessels are every one in debt a good deal. I think I haven't paid the captains a dollar for the last three years, and they owe me \$4,500. They are not able to pay me anything, and I suppose I shall have to lose that.

COST AND OUTFIT OF VESSELS.

Q. Select one of your best vessels and give me her name.—A. The largest one of them is the Lizzie W. Madison.

Q. What did she cost?—A. Seventeen thousand dollars.

Q. What is her tonnage?—A. Since the tonnage has been cut down her tonnage is 187 or 188 tons.

Q. How many men does she take?—A. Twenty-two.

Q. Please state the length, on the average, for one of her cod-fishing trips.—A. They average about three and a half to four months.

Q. What is the cost of her outfit?—A. That is about \$3,000; the wages are about \$3,000, that is, for this year; one year I paid \$5,200 wages; that was the highest, and this year is the lowest.

Q. What would they be paid per man?—A. They would be paid \$140 for the three months.

BAIT.

Q. Do your vessels fish on the Banks?—A. Yes, sir; on the Banks of Newfoundland altogether.

Q. What are your necessities about bait there?—A. We never went in without bait; I always put aboard all the bait we wanted.

Q. What kind of bait?—A. Clams. I put 130 barrels of bait aboard the Lizzie W. Madison and 55 barrels on the smaller ones.

Q. So that you never found any necessity for buying bait on the Canadian waters?—A. No, sir.

Q. Squid are better than clams, are they not?—A. Squid are better than anything.

Q. Can you obtain those squid outside the Canadian waters?—A. Yes, sir; on the Grand Banks. This year they threw away all the bait they took from here, and which cost me \$3,000 or \$4,000. Some years there are no squid up there at all; so that we have to carry the clams from here, even if we afterwards throw them away. We cannot get clams without great expense. If the squid should fail any one year, and we had no clams for bait, it would ruin the voyage.

Q. Suppose the squid did not fail on the Banks, and you had your clams on board with which you had furnished your vessels, would you not want to go ashore and buy squid?—A. No, sir; never.

Q. Then, in your opinion, there is no necessity of our fishermen buying bait?—A. Not at all. Our Bank fishermen have no use for them. Our people used to set trawls on the bottom. About 25 years ago quite a number of our vessels set trawls on the bottom, with a line and hooks attached. The clams were not very good. Our people haul fish in with a hand line. When the clams were not good then they would have to go in and get squid. They bought these squid in Newfoundland. But they don't get any now.

Q. Your opinion is that the privilege of buying bait is not worth anything?—A. Not anything at all.

Q. So you would not give Canada anything for it?—A. No, sir.

THREE-MILE LIMIT.

Q. What occasion do you have to go inside of the three-mile limit?—A. None at all. My charge always was not to go inside of the line if they could avoid it.

Q. Then you would not have them go in except in case of a storm?—A. No; unless an accident of some kind happened, or it became necessary for them to go in for repairs. They do not go within a hundred miles of Newfoundland or any of the land.

LENGTH OF FISHING VOYAGE.

Q. How long does it take to go from Provincetown or Gloucester to the Grand Banks?—A. Owing to the weather; I have known them to go in four days, and I have been myself in eighteen days and fifteen days.

Q. Do you make more than one trip during the season?—A. Our vessels here do not.

Q. Do you know whether the Canadians make more than one trip a year?—A. I never was on the Banks since they came along there, but I know from my captains' reports that they do make two or three trips. They do not get very heavy trips. They live so much nearer the Banks than we do that they go in and discharge their fish and go out again.

RELATIVE EXPENSES OF VESSELS.

Q. Do you know how the cost of the outfit of Canadian vessels compares with ours?—A. I do not; but I know that their vessels don't cost them nearly so much.

Q. Do you know the difference in the cost of the two kinds of vessels?—
A. Yes, sir. I have paid \$48 a ton and \$45 for building vessels, and they only pay \$18.

Q. But you do not know about the outfit?—A. I don't know about the outfit.

Q. Do you know about their sailors' wages?—A. I do not. They don't go on wages; they go on shares.

Q. Has it not been usual with our fishermen to go on shares?—A. They do in Gloucester, but not here. The captain takes the vessel from us on shares. He takes the responsibility, and we have to furnish the funds to fit her out.

By Senator EDMUNDS:

Q. The captain hires the men?—A. Yes, sir; and if there is a mate, he draws a share with the captain. The captain draws one-half and the vessel the other half.

EFFECT OF THE TREATIES.

Q. You have been in the fishery business for a long while; during the reciprocity treaty of 1854, and also during the treaty of 1870, down to the present time. What has been the effect upon the fishery business of those two treaties admitting fish free?—A. The 1854 treaty did not affect us at all, and I will tell you why. We educated those people for fishing, as we have educated every nation on God's earth. Even Portugal to-day has to get her education from us, and the French to-day fish in the same way we do, with the same gear and with our boats. We have educated the whole world to fishing. In 1854 those people were mostly educated in Gloucester, and they remained in Gloucester; they did not go home. But in 1871, when the duties were taken off and fish were allowed to enter free, pretty much the whole of Gloucester went down home, and they built over 500 vessels in one year that they sent down to Nova Scotia. That has done the whole business for us. They were educated here, and then went home and built a whole fleet of fishing vessels; and when they got more fish than they knew what to do with, they shoved them in here to choke us.

Q. What was the effect upon the general fishing interests of Massachusetts, so far as you know, of that treaty of 1870?—A. The effect is that it has driven us all into debt, and we want to get out if we can.

DUTIES ON FISH.

Q. Then you do not want free fish?—A. No. We get more fish than we know what to do with, even at 13 cents a pound, when we can sell them for that. I wrote to France to know if I could sell a cargo of fish there. What was the answer? "Duties are so high that it would be no use." And therefore they starve their fishermen. Season before last we sent four or five cargoes of fish to Portugal and sold them at a fair compensation. They brought about \$7 a quintal. But we did not get our money for nine to twelve months, and we could not do without our money so long. Their way is to sell their cargo to merchants, and then they have to wait there until the fish are all sold, and it is sometimes three months before they will give you your money.

Q. How much duty did you have to pay?—A. Two dollars and fifty cents in Portugal, and two dollars and fifty cents in Hayti.

By Senator FRYE:

Q. Do you know what the duty is in Canada on cargoes from here?—
A. Fifty cents.

Q. Did you ever send any into Canada to sell?—A. I have carried fish to Halifax, small fish, and sold them there, when fish were free.

Q. Not since there has been a duty?—A. No, sir.

Q. What country is open to your fish without payment of duty?—A. I can't find any, and I have written all over the world. I can't find anybody but what wants to be paid for them, instead of paying for the fish. We can send some to Martinique; I believe the duties there are not very high; but that is a French port and is crowded with French fish.

Q. How large a fleet is the French fishing fleet?—A. I don't know they have quite a large fleet, and their vessels are large, 8,000 to 10,000 quintals.

COMPETITION WITH FRENCH FISH.

I had some nice fish this voyage, which I cured about a fortnight or three weeks ago. (I want to say this just to show you how these things operate with us.) I went to Boston with those fish; they were dry fish, not in pickle. I went to the dealers. They didn't want any dry fish at all; they wanted green pickled fish to cut up and put in boxes. Said I, "Why?" The answer was, "We have got plenty of French fish in our store-houses over to East Boston." They pay 50 cents per quintal and deliver them in Boston. Those dealers in Boston want to kill us out; they are bitter against us. I have a good deal to do with them. They want free fish. They gather those French fish and put them in store-houses. So I had to sell my dry fish for \$2 a quintal, and the bought theirs for \$3, and the French paid 50 cents duty. But the Frenchman goes home, and his Government pays him a bounty of \$2 a quintal. So the Frenchman gets \$3 here for his fish and \$2 at home, which makes him \$5 gross; and that is more than we ever got, I was going to say.

BOUNTIES.

Q. Our fishermen do not get any bounty now?—A. No, we don't want any. I always went against a bounty. We don't want to fare any better than the rest part of our people. Give us the same privileges as our farmers. Put duty on our fish, the same as you give protection to beef, pork, and potatoes.

Q. Canada pays a bounty to her fishermen, does she not?—A. They say so—out of what she got from us.

Q. Out of that \$5,500,000?—A. Yes, sir. That was all thrown away. I was down to that court at Halifax, and I never saw such work in my life. It made me so mad I didn't know what to do, and I was just as saucy as I was mad. There wasn't anybody in Halifax, none of the merchants there, but what told me before the case was decided, "Yankees have got the weather of us this time." But instead of that we had to pay them five millions and a half.

TREATIES WITH ENGLAND.

Q. What do you want us to do with Canada in behalf of the fishermen?—A. Do nothing with Canada; leave her out. She only wants to get all the gold from us to send over to England.

Q. What do you want us to do with Great Britain?—A. Let her alone.

Q. You do not want any treaty?—A. What do we want with Canada Treaty! No. If I had it my way I would make a treaty and get something out of them for that five millions and a half. What have they that we want?

Senator FRYE. I do not know of anything.

The WITNESS. England is putting railroads through Canada, so that she can draw \$20,000,000 gold a year out of this country to go right back to England. She is in Mexico, on the south, and in Canada, on the north, drawing gold out of this country, the same as she did out of Egypt and every other country. She has got a little colony here and there all over the world to draw the gold out of every nation and send it home. We just want \$2.50 duty on codfish brought into this country.

FRESH FISH.

Q. How about the duty on fresh fish?—A. There ought to be a strong duty on fresh fish, too.

Q. What do you know about importations of fresh fish from Canada?—A. I don't know much about it. I only know that it affects our market. There is not much of their fresh fish comes in, except mackerel from the shore of the Bay of Fundy, and lobsters.

Q. And halibut?—A. I guess there is some halibut comes in. I never knew of any codfish brought in; but they would fish for codfish and drive out our fishermen any time; I know that.

Q. Do not our vessels that go for fresh fish take ice to keep the fish?—A. Yes, sir.

Q. And they bring them in in ice?—A. Yes, sir.

REFRIGERATING PROCESSES.

Q. Are they then deposited in refrigerators and sent all over the country in refrigerator-cars?—A. Yes, sir; they are put into sugar-boxes.

SALT FISH vs. FRESH.

Q. What, in your opinion, is the effect of the great increase of fresh fish upon the demand for salt fish?—A. It affects it very much indeed, because people will use a fresh article before they will a salt one.

Q. You mean it reduces the demand for salt fish?—A. Yes, sir; the demand for salt fish to-day is not as large, in proportion to our population, as it was forty years ago. I was then in the fishing business, and there was a demand for all our salt fish. There were very few fresh fish then. Our population has increased threefold in the last forty years, and yet we do not use much more salt codfish than we did then.

Q. The fresh fish have increased, and the salt fish have decreased?—A. The salt fish have not decreased, but their increase has not been in proportion to the increase of the fresh fish.

FREE FISH.

Q. These fresh fish all come in free now, as you understand it, from Canadian waters?—A. I never knew them to fetch in any codfish.

Q. You have known them to fetch in fresh fish, have you not?—A. Yes, sir; smelts, herring, and mackerel.

Q. They come in free?—A. Yes, sir. That is done away down on the western shore, I guess. The Southern fishing business is a pretty fair business nowadays for us.

DIFFERENCE IN COST OF UNITED STATES AND CANADIAN VESSELS.

By Senator SAULSBURY:

You spoke about the difference in cost of Canadian vessels, as compared with ours, as one reason why they could fish cheaper than we

can. To what do you attribute the difference in cost between Canadian vessels and ours?—A. There is just about a difference of one-third in the cost of both vessels and outfits.

Q. What is the cause?—A. It is because their country is not so much advanced as ours in their manner of living, and also because of the difference of cost of material and labor. We want to hold up our labor. We don't want a man to work for 50 cents a day. I have hired men to work for me down there for 80 cents a day, and they would work all day long and half the night. For such labor here I would have to pay \$1 or \$2.50. There is the difference. If you want a good vessel built here you must have good workmen and you have got to pay them good wages. A man can't live in this country on 50 or 75 cents a day. Their material don't cost them anything hardly. They have an abundance of that kind of wood of which they build vessels.

By Senator FRYE:

Q. They build them largely of soft wood, do they not?—A. The frame work of the vessel is hard wood, but in a great many of them the planking is spruce, soft wood. I have been aboard of them down there and talked to the boss workmen. It costs \$18 a ton down there to build those vessels, while I can't get one built here in these hard times short of \$40 or \$45 a ton. We don't want to come under the lash to live and be compelled by our Government to live just as they are. I can remember when we here in Provincetown did the same kind of work they are doing at about the same cost. The first vessel I knew my father to build here only cost him \$24 a ton. But it is very different now. It did not cost me half as much to live forty years ago as it does now. What are we going to do? Have we got to fall back and bring up our children to not go to school, or not give them clothes fit to go in, and give them hardly anything to eat? We can't stand that. We will clear out if we can't do better.

TESTIMONY OF CAPT. WILLIAM MATHESON.

PROVINCETOWN, MASS., October 1, 1886.

Capt. WILLIAM MATHESON sworn and examined.

By Senator FRYE:

Question. Where do you reside?—Answer. I live here in Provincetown.

Q. What is your age?—A. Fifty-nine.

Q. What is your business?—A. Fishing business.

Q. How long have you been in the fishing business?—A. I have been in the fishing business for thirty-five years.

Q. What kind of fishing?—A. Cod-fishing.

Q. In what capacity are you now in the business?—A. I am now agent here for vessels.

Q. How many vessels?—A. Five.

Q. How long have you been acting as agent for vessels?—A. About ten years.

Q. During the last treaty and since it expired?—A. Yes, sir.

Q. What class of vessels?—A. Schooners.

Q. Good ones or poor ones?—A. Considered decent good.

AVERAGE COST OF FISHING VESSELS.

Q. What is the cost of any of them?—A. About \$15,000.

Q. What is the average cost per ton of good fishing vessels?—A. I haven't built any for the last four years. The last one I built I paid for at the rate of \$43 a ton.

Q. You think that is pretty near an average for a good, first-class fishing vessel?—A. It was at that time.

Q. What does that \$43 include?—A. The hull and spars.

Q. What does the finishing up, the rigging, and all that, add to that?—A. One-third more.

Q. What does an outfit of one of these 75-ton vessels cost?—A. The outfit would be about \$1,500 to \$1,700.

Q. For how long a trip?—A. Four months.

COMPENSATION OF FISHERMEN.

Q. How have you managed those vessels for the last ten years, as to crew and all that sort of thing?—A. I hired crews by the trip.

Q. How much a trip?—A. Different wages,

Q. State approximately.—A. According to the quality of the men. Sometimes we give them as high as \$150 and \$160; and then again we would hire a poorer class man and give him \$125.

Q. For the voyage?—A. For the voyage.

Q. You do not catch any fish on shares?—A. No, sir.

By Senator EDMUNDS:

Q. What would be the average wages for a voyage?—A. For such vessels as you ask me about, the wages would be about \$1,500 to \$1,700.

Q. That does not enter into what you call the outfit?—A. The outfit is one thing and the wages another.

Senator EDMUNDS. That is what I supposed.

By Senator FRYE:

Q. Do not the owners prefer the old style of going on shares?—A. We can't hire men very well to go on shares; business is so bad they are liable to fall in debt.

Q. Formerly did not nearly all the fishermen sail on shares?—A. Yes, sir; when times were good they liked to go that way.

Q. But business has now become so uncertain that you say you have to hire your men instead of taking them on shares?—A. Yes, sir.

Q. What effect has that had upon vessel owners?—A. The owners have to bear all the losses.

Q. Has it had any tendency to drive them out of the business?—A. Yes, sir.

BAIT.

Q. Where do you do your fishing now?—A. On the Grand Banks.

Q. What do you use for bait?—A. Clams.

Q. Have you any occasion to buy bait of Canada?—A. No, sir.

Q. Have any of your captains bought bait of Canada?—A. Not of late years.

Q. Is clam bait suitable?—A. Yes, sir.

THREE-MILE LIMIT.

Q. Suppose you could get squid by running within the three-mile shore line of Canada?—A. We always get squid on the Grand Banks whenever they are there.

Q. Then what occasion have your vessels to go inside the three-mile limits?—A. They don't go there.

EFFECT OF THE TREATY OF 1870.

Q. What was the effect, upon the fishery business, of the treaty of 1870 during its continuance?—A. It has been a ruinous business for us for the last four years. Before that we were getting along very well. The last four years have been hard ones for us.

Q. The treaty expired in July, 1885. How did it affect you the last four years differently from the first six years of the treaty?—A. We have it about as bad to-day for prices as at any time.

Q. What happened four or five years ago?—A. The business kept declining year after year.

Q. Did the Canadian fleet increase?—A. Yes, sir.

Q. And did the supply of fish they brought into this country increase?—A. Yes, sir. That is what used us up. For two years, in particular, they built a terrible sight of Canadian vessels down there, and all went fishing two or three trips a year, and put their fish against us. Every time we sent fish to Boston, New York or anywhere else, the news would come back "Here is fish from English vessels selling for such a price, and if you don't sell for less you can't sell at all."

Q. So the Canadian fleet commenced increasing largely about 1880?—A. Yes, sir; about 1880 largely. I don't think they are building many for the last year or so, but before that they went into it rapidly.

Q. And broke you down rapidly?—A. And broke us down rapidly. It filled our markets full of fish.

EFFECT OF DUTY UPON THE CONSUMER.

Q. To whom do you sell fish?—A. Different ones.

Q. Wholesalers?—A. Wholesalers.

Q. You do not retail?—A. Nothing of any account.

Q. Do you know whether the duty on fish affects the price to the consumer, the man who buys of the retailer?—A. I couldn't say so much about that.

Q. What do you want of Canada, captain?—A. We want them to pay a fair duty on their fish, and give us a chance.

FRESH FISH AND MODERN REFRIGERATING PROCESSES.

Q. How about fresh fish?—A. We don't want fresh fish free of duty either.

Q. Why not?—A. Because we have got enough of our own.

Q. State whether or not the importation of fresh fish and its increased consumption do not decrease the consumption of salt fish.—A. Yes, sir; I think the more fresh fish there is the less salt fish we shall use.

Q. Does not the fact that, under modern processes, fresh fish can be sent all over the country in refrigerator cars, affect the salt-fish trade?—A. Oh, yes; there is no question about that.

Q. So that your desire is a duty on both salt and fresh fish?—A. Yes, sir.

Q. How large a duty? Is the present duty large enough?—A. No, sir. They have the best of us every day with duty only at 50 cents a quintal.

COMPARATIVE COST AND RUNNING EXPENSES OF UNITED STATES AND CANADIAN VESSELS.

Q. How do they get the best of us?—A. Their vessels do not cost more than about half as much as ours, and their expenses are low all the way through to what ours are.

Q. Do you know about their wages?—A. They generally go on shares, and if they make \$50 they are satisfied. Fifty dollars is no account to our men. A man can't keep a family on that. Down there they have their farms, and they go out fishing in summer, and if they get \$50 in cash for their fishing, they can get along very well.

Q. So your idea is that on account of the low prices of wages there, their manner of living, and the low cost of vessels, together with the nearness of the Banks to the coast, it is impossible for us to compete with them?—A. No, sir; it is not impossible, but we ought to have at least a dollar duty in order to enable us to compete with them on fair terms to us.

Q. A dollar on both salt and fresh fish?—A. A dollar on both salt and fresh fish.

Q. Do you know where you can find a market where there is not a duty?—A. I don't know of any. We have to pay a duty everywhere.

BOUNTIES.

Q. Do you know whether or not nearly all other nations pay bounties to their fishermen?—A. They do in Canada, and they do in France.

Q. Do you know how much bounty is paid in Canada?—A. I have often heard them telling about the bounty they were getting.

Q. So much to a boatman, and so much per ton to the vessel?—A. Yes, sir.

CONSTRUCTION OF UNITED STATES AND CANADIAN VESSELS.

Q. Are the Canadian vessels built of poorer material than ours?—A. Yes, of soft wood. Then most people down there have large tracts of land, and they cut their ship timber from their lands.

Q. They plank their vessels with spruce?—A. Sometimes with hard wood. It don't cost them but \$27 a ton to construct their vessels, while we pay \$45 and \$48 and \$50.

Q. A great many of our fishing vessels are built of the best white oak, are they not?—A. Yes, sir; most of them.

Q. What is the average cost per ton of, say, a 70-ton fisherman, rigged and all ready for sea?—A. If they were as high to-day as they were three years ago, I suppose it would be somewhere in the neighborhood of \$3,000 to \$3,500, or \$100 a ton.

Q. Do you know about the rigging and fitting of Canadian vessels?—A. I suppose that costs pretty near as much as ours, because they get a great deal of that material from this way. I don't think they buy it at any less cost than we do. Where they make the great saving is on the hull and spars.

MACKEREL FISHING.

Q. Do you have anything to do with mackerel fishing?—A. No, sir.

By Senator EDMUNDS:

Q. Is there any mackerel fishing going on from Provincetown?—A. Yes; there are three firms in this town.

CANADIAN COMPETITION.

By Senator SAULSBURY:

Q. If you could buy your vessels as cheap as the Canadians, do you think you could compete with them in the fishing business?—A. We can't get men here as low as they do. Men are cheaper that way, on account of their way of living. When we come to fit our vessels our fitting costs a good deal more.

Q. The cost of wages and provisions?—A. Yes, sir; that would be a great deal more. So, really, if fish were \$4 a quintal, we ought to have a dollar duty to compete with them, for they would do as well on \$3 as we would on \$4.

Q. If that \$1 duty was sufficient, so that Canadians could not afford to send their fish, how would it affect the market?—A. The fish would not rush in so freely as they do now, so that there would be a chance for us, when we sell fish, to get something for them to pay us. But as it is now, they put their fish in so low that we sell at a loss every time. If their fish did not compete with ours, there would be a chance for us to live.

EFFECT OF DUTY UPON THE CONSUMER.

Q. I am sorry that the increase of duty does not inure to the benefit of the fishermen here, but my inquiry had reference to the consumer of the fish. How would he be affected by this tariff of 50 cents or \$1 upon Canadian fish?—A. I don't think it would make much difference to the fellow that uses the fish. I guess he has to pay about the same any way.

Q. The middlemen put it up on him?—A. Yes, sir.

Q. What is the present price of fish to the wholesaler—that is, what do you get for your fish?—A. We get about \$2.25.

Q. What does it cost you to catch them?—A. It costs us about \$2.50 to catch them.

By Senator EDMUNDS:

Q. Two dollars and seventy-five cents for what quantity?—A. For a hundred pounds. That is the way we are doing business.

TESTIMONY OF CAPT. MURDOCK KEMP.

PROVINCETOWN, MASS., October 1, 1888.

Capt. MURDOCK KEMP sworn and examined.

By Senator FRYE:

Question. Where do you reside?—Answer. Provincetown.

Q. What is your business?—A. Fisherman.

Q. In what capacity?—A. Master.

Q. How long have you been a fisherman?—A. About fifteen or sixteen years.

Q. Where do you fish?—A. At the Grand Bank mostly.

Q. For codfish?—A. Yes, sir.

BAIT.

Q. What is the bait you use?—A. Clam bait.

Q. Did you ever have occasion to go in to buy bait?—A. Not of late years; not since we commenced carrying clam bait.

Q. How long have you carried clam bait?—A. For the last six years.

THREE-MILE LIMIT.

Q. Did you ever have any occasion to go within the three-mile shoreline for anything?—A. No, sir; no more than for harbor.

Q. In a storm, or to repair damages?—A. Yes, sir.

Q. Have you done so this season?—A. Yes, sir.

SEIZURE OF THE PEARL NELSON.

Q. What vessel?—A. The Pearl Nelson.

Q. Please give an account of that affair.—A. On our way home we went into Arichat, Nova Scotia, for harbor.

Q. In a storm?—A. There was a heavy breeze of wind, and some of my crew that belonged there landed there that night. I anchored about 11 o'clock at night. I went ashore the next morning to report at the custom-house, and of course the custom-house officers stopped my vessel.

Q. Seized her?—A. Yes, sir.

Q. For what reason?—A. For letting my crew land before I entered the custom-house; that is all the reason he gave me.

Q. What caused you to allow them to land?—A. I didn't know it was any harm. I have never seen or heard of it being stopped before.

By Senator EDMUNDS:

Q. Had you ever done that before?—A. I had done it time and again, and seen everybody else do it.

By Senator FRYE:

Q. And never before heard of anybody being troubled about it?—A. No, sir.

Q. What was the result?—A. I paid \$200 and got clear.

Q. You paid the \$200, did you?—A. Yes, sir.

Q. Did they give you any law, regulation, or rule?—A. Yes, sir.

Q. In writing?—A. Printed.

Q. Have you it with you?—A. It is down to Mr. Cook's store.

EFFECT OF THE LAST TREATY.

Q. What was the effect of the last treaty upon the fishery business?

—A. The effect with me is that of course I can't get a living at it.

Q. How many men do you take?—A. Seventeen, all told.

Q. Do you pay them wages?—A. Yes, sir. Last year my wages averaged about \$130.

Q. For a voyage?—A. Yes, sir.

Q. How long a voyage?—A. I was gone about three months and a half.

Q. What was your outfit?—A. I suppose Mr. Cook can tell you that better than I can; I don't know as I know real well.

Q. What was the result of your operations for the season?—A. I got a full fare of fish.

Q. How did they pay you?—A. None of them are sold yet, and from the outlook now it is not likely they will be.

COMPARATIVE WAGES IN THE UNITED STATES AND IN CANADA.

Q. Do you know what the difference is between the wages of your men and Canadian wages?—A. The difference is that my men are sure of something and Canadian men are not sure of anything, for they only get according to what the fish fetch.

Q. They sail on shares?—A. They sail on shares.

Q. Will not your men sail on shares?—A. We can't get them to, and they haven't done so since I have been going out of this town—that is, for the past fifteen or sixteen years.

Q. Have you any idea how much the men who do the fishing get out of a season's fishing up there?—A. They get from \$200 down to \$100 to a man for the fishing season.

Q. Our men averaging about \$130, as you say?—A. Yes, sir.

Q. Then do they not get about as much as your men?—A. There is no great difference.

MARKETS FOR CANADIAN FISH.

Q. Where do those Canadian vessels carry their fish to?—A. To the ports where they belong.

Q. And then where do they carry them?—A. There is a big pile of them going to Boston, New York, and other American markets; some go to the West Indies.

By Senator EDMUNDS:

Q. They do not run them straight down here from the Banks?—A. No, sir; they first land in the ports where the vessels belong.

Q. And are sent off afterwards?—A. Yes, sir; by the vessels that catch them.

Q. Then the vessels that catch them do bring them down here sometimes?—A. Yes, sir; after they are dried.

COST OF CURING FISH.

By Senator FRYE:

Q. You bring your fish in here?—A. Yes, sir.

Q. What do you pay your men for curing?—A. The cost of curing here is one-eighth of the fish.

Q. Do you know what the cost of curing in Canada is?—A. As far as I can find out, about 20 cents a quintal.

Q. About what proportion would that be?—A. There is no great difference as the prices are now.

Q. Do they not employ women and children to do their work?—A. Yes, sir.

Q. What do you employ?—A. The vessel-owners here employ what they see fit.

Q. You do not know what the difference in cost is between the wages actually paid here and the wages actually paid there in the curing of fish?—A. No, sir; I don't know.

DYNAMITE FOR CANADA.

Q. What do you want Congress to do with Canada for your benefit?—A. Blow it up with dynamite.

Q. You do not want free fish?—A. No, sir.

CANADA.

ges of your
men are sure
for they only

Q. Is there anything they can give you for which you will be willing to give them free fish?—A. No, sir.

Q. Is there anything that your fishermen, the men like you, want of them?—A. No, sir.

THREE-MILE LIMIT.

By Senator EDMUNDS:

Q. Did you ever fish for mackerel up there?—A. No, sir.

them to, and
own—that is,
ishing get out
down to \$100-

Q. Did you ever fish for cod inside the three-mile limit?—A. When I belonged there I did.

Q. But I mean since you left there?—A. Never since I left there.

es, sir.

—A. There is

TESTIMONY OF JAMES A. SMALL.

PROVINCETOWN, MASS., *October 1, 1886.*

JAMES A. SMALL sworn and examined.

By Senator FRYE:

Question. Where do you reside?—Answer. In Provincetown.

Q. How long have you lived here?—A. Seventeen years.

?—A. To the
a big pile of
markets; some

Q. What is your business?—A. Outfitter; I do a general outfitting business for fishermen.

e Banks?—A.
ong.
e vessels that

Q. What kind of fishermen?—A. Mackerel, principally; some cod.

wn here some

EFFECT OF THE TREATIES, ETC.

Q. State generally to the committee what you know about the mackerel fishing during that 17 years, and the effect of the treaties, and matters connected therewith pertinent to our investigation.

Senator EDMUNDS. And where the fish are caught, whether inside or outside of the three-mile limit.

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—A. As far as

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our benefit?

A. The mackerel generally, for the last 17 years, have been caught on the New England coast, and but few, as far as my experience goes, in the Bay of Chaleur, and a large proportion of those caught there have been caught outside the three-mile limits. My personal experience on that matter consists in having gone perhaps a half dozen trips during the 17 years, those trips having resulted in perhaps a thousand barrels of mackerel caught, half of which have been caught outside the three-mile limit.

Q. (By Senator FRYE.) What is the reason it is not prudent to take the fish within the 3-mile limit?

Senator EDMUNDS. That is, while the treaty was in force that made it lawful for you to do it.

A. While the treaty was in force we could not do it lawfully.

Senator EDMUNDS. I mean while the treaty was in force which allowed you to fish inside the three miles.

The WITNESS. We did fish inside the three miles when we wanted to, but as a general thing we fished outside.

Senator EDMUNDS. We wanted to know the value of the deprivation of the privilege of going inside.

The WITNESS. That is very little.

Q. (By Senator FRYE.) Why? Is it not because the method of fish-

ing has been changed?—A. In a great measure, yes. They fish with seines now, whereas formerly they fished with hook and line.

VALUE OF THE FISHING PRIVILEGE WITHIN THE THREE-MILE LIMIT.

Q. How many vessels have you in the business?—A. We have four in the business now, and we have averaged, I should think, about eight sail in the mackerel business.

Q. When your vessels have fished within the three-mile shore limit what has been the profit on the mackerel which you have taken?

The WITNESS. I don't understand the drift of your question. Is it what has been the profit on these particular mackerel that we caught there?

Q. What has been the result of your fishing operations within the three-mile limit?—A. They have not been in any way satisfactory or useful to us; they have not been to our advantage.

Q. In other words, then, your mackerel cost you more than you got for them?—A. My experience is such as to cause me to believe that if we had never seen the Bay of Chaleur, or North Bay, it would have been better for us and all concerned in this town. I think it would have been better for us if that bay had been closed up to us 50 years ago.

COST OF FISHING VESSELS IN UNITED STATES AND CANADA.

Q. What kind of fishing vessels are those mackerel vessels?—A. They average 70 or 75 tons.

Q. What do they cost?—A. The last one we put in new in 1883 cost us \$10,000 equipped.

Q. How would Canadian vessels cost compared with that?—A. I am not able to say.

THREE-MILE LIMIT.

Q. By the way, how many trips have your vessels made within the 3-mile shore line in the last 5 years?—A. I should say that in the 12 years we have made five or six trips to the North Bay, with a product of a thousand barrels of mackerel, one-half of which were caught within the three-mile limit.

Q. During the whole 17 years?—A. Yes, sir.

Q. What value do you place upon that privilege of fishing within that limit to-day?—A. No value comparatively. We can get along without it.

Q. What are you willing to give to Canada for the privilege of fishing within that limit?—A. Not a cent. They should pay us rather than we should pay them. It is no privilege to us.

BAIT.

Q. How about bait? Is it not a privilege to buy bait?—A. We have never had occasion to buy bait there.

Q. Do you think it is necessary for cod-fishing to go in there to buy bait?—A. No, sir.

Q. Is there anything that our fishermen need there except shelter, food, and water and chances to repair?—A. No, sir. We ask no privileges.

FREE FISH.

Q. Have our fishermen been in the habit of drying any fish there for the last 10 or 15 years?—A. Not to my knowledge.

Q. Do you know any of our fishermen who have?—A. There may have been some, but I know of none positively.

Q. What do you think Canada has that she can give us for the right of our market free for her fish?—A. She has nothing that will offset that privilege, in my estimation.

Q. What, in your judgment, has been the effect of free fish under the treaty?

The WITNESS. Reciprocity of 1870?

Senator FRYE. Yes.

A. Its tendency has been to open a market to them and to increase their fleet to such an extent that, in one sense, they take the large part of our market for their fish. They have seen the value to them of the open market, and the consequence is they have increased their fleet, from the fact that they have had these inducements held out to them.

Q. Why cannot you compete with them?—A. Because they are nearer to the fishing grounds, in one sense, and they can build their vessels, if I understand the matter correctly, very much cheaper than we can. Everything that goes into the making up of a voyage comes to them cheaper. Everything that enters into the construction of the vessel is cheaper to them than it is to us.

Q. What effect upon the fresh-fish market has the importation of fresh fish free, under the construction given by the Treasury Department, had?—A. I think it has been injurious, as far as my observation goes, and as far as I am able to learn.

Q. Have you any idea of the extent of the fresh fish market in this country?—A. No, I have not. I know it is enormous, not only on the sea coast but on the lakes.

Q. What do you do with your mackerel?—A. Salt them.

Q. You do not sell fresh mackerel?—A. No, sir.

INCREASE OF CANADIAN IMPORTATIONS.

Q. You know the condition of the market after the Canadian fleet increased so for the last five years. Have you any knowledge as to how much the importation of fish was increased from Canada year by year?—A. No, sir; I couldn't give the amount. I am not versed in the statistics.

Q. Suppose the same condition of things should continue for the next ten or fifteen years that has been in force for the last five years; what would be the effect upon our fishery business?—A. We should be driven out entirely. It has been going down for three years steadily. We are not made both ends meet in any branch of the business.

Q. Is that true of all the fishery business with which you are acquainted?—A. That is true of all that we have any interest in and all that I know anything about.

By Senator SAULSBURY:

Q. Have you information as to the number of Canadian vessels engaged in bringing fish into this market?—A. I have not.

Q. About what percentage, should you suppose, were brought here on Canadian bottoms?—A. I have no means of knowing that. I have never studied that question.

TESTIMONY OF JAMES GIFFORD.

PROVINCETOWN, MASS., October 1, 1886.

JAMES GIFFORD sworn and examined.

By Senator FRYE:

Question. What is your business?—Answer. Deputy collector of customs.

Q. And have been for how long?—A. For 18 years.

Q. Where?—A. At Provincetown.

Q. During that time have you had any interest in, or made any investigation of, this fishery matter?—A. I have.

STATISTICS SHOWING THE EFFECT OF DIFFERENT TREATIES.

Q. Will you state, in your own way, to the committee your knowledge of the fishery business, the effect of the treaties upon the business of this country, &c.?—A. I will state that I have examined the official reports of Canada, the annual reports before and during the treaty, and also the annual reports of our Government during the same time, and I have compiled from them some statistics. I have the reports for each year with me, but for the sake of making a brief statement to the committee I have compared my figures, the result of which I will give you. I will first give you the products of the British fisheries, to show the effect of the treaty from 1872 to 1884, and the amount of importations into this country.

In 1872 the value of British products was \$7,532,200. We imported that year into the United States \$1,20,081 worth.

By Senator EDMUNDS:

Q. That is fish products?—A. Yes, sir. The intervening years I will not give, but give them for 1884.

Q. Have you the figures for the intervening years?—A. I have them. Senator EDMUNDS. Then make up a table and give it to the stenographer to be made a part of your testimony.

The WITNESS. In 1884 the value of British products was \$17,852,521; we imported that year \$5,633,566; the gain being in products of Great Britain \$10,320,521, and the gain in importations, from 1872 to 1884, inclusive, into this country was \$4,613,455.

The increase of Canadian fishing vessels and boats during the same time was as follows:

In 1873 the fishing vessels numbered 402, and fishing boats 9,009.

In 1884 they had 992 fishing vessels and 12,772 boats, a gain of 590 vessels of fishing vessels and 3,763 boats.

In 1883 the Province of Nova Scotia alone added 143 fishing schooners, chiefly bankers, and 1,526 men, to her already large fleet.

And in this connection I refer the committee to Report on the Canadian Fisheries for the year 1883, page 21. I have that report with me.

I will now state the decrease in American tonnage during the same period.

In 1873 the fishing tonnage of the United States was 109,519 tons.

In 1884 it was 82,565 tons, the loss amounting to 26,954 tons.

I will now state the decrease in the number of fishing vessels in the six ports of Cape Cod, that is, in this county.

Q. That is, the district of Barnstable?—A. That includes the whole district of Barnstable.

In 1873 the number of vessels belonging to Provincetown was 190 sail. (I would say that this is taken from the official records at Barnstable, from the latest authority.) In 1885 there were 118 sail.

In Wellfleet in 1873 there were 71 sail; in 1885 there were 47 sail.

Dennis had in 1875 46 sail, and 19 sail in 1885.

Chatham had 13 sail in 1873, and 20 sail in 1885, being a gain of two, and the only one that has gained.

Plymouth had one in each of those years.

Hyannis had one each year.

The total for the six ports in this district was 266 sail in 1873, and 206 sail in 1885, a loss of 60 sail and 2,000 tons during that time.

I will now state the catch of vessels belonging to Barnstable County that fished in British waters during the treaty.

By Senator FRYE:

Q. What do you mean by "British waters"—within the three-mile shore line?—A. No; inside and outside altogether, in British waters.

By Senator EDMUNDS:

Q. That is, the waters of the Canadian Provinces?—A. Yes, sir; over which they claim jurisdiction.

One from Dennis took 240 barrels of mackerel in 1879.

Six from Wellfleet took 70 barrels in 1880, none in 1881, none in 1882 and 1883. The product altogether there in 1884 was 185 barrels.

Five from Provincetown in 1884 took 500 barrels. One from Provincetown took 206 barrels in 1885.

During this term of four years from those six ports there were 16 vessels that made voyages to the British waters, and they took a little over 110 barrels. I should say that this year we had several, but there was but one that made a successful trip.

By Senator FRYE:

Q. Can you tell as to the cost of that mackerel, whether they paid for the 16 vessels?—A. No, sir.

Q. State as nearly as you can as to that.—A. There was a loss. Amongst the 16 voyages there may have been two or three that were profitable, but the rest suffered serious loss, and during that time two vessels were lost from this port, one with an entire crew, the loss exceeding by far the gross stock caught in those waters during that time.

THREE-MILE LIMIT.

By Senator EDMUNDS:

Q. You spoke of one vessel this year fishing in British waters; what did you mean by that?—A. There was more than that.

Q. Do you mean inside the three-mile limit?—A. No, sir; there were nine vessels from this port this year in the British waters, all fishing off shore, and they brought in 1,426 barrels, an average of about 158 barrels to each vessel.

Q. You do not call the Grand Banks British waters?—A. No, sir.

Q. You mean in the neighborhood of the islands at the mouth of the St. Lawrence?—A. No, sir; in the Gulf of St. Lawrence.

By Senator FRYE:

Q. But not within the three miles?—A. No; none of our vessels have

fished within the three-mile limit this year. There was one of those vessels I speak of that made a very successful trip.

Q. Did those 16 vessels during that time fish within the three-mile shore-line when they had that privilege, or did they take most of their fish outside?—A. They took most of the fish outside.

CANADIAN ESTIMATE OF VALUE OF INSHORE FISHERIES.

But just allow me to quote to show the estimate of the British themselves in regard to the value of those inshore fisheries:

Q. What do you quote from?—A. From the official report of J. Hunter Duvar, inspector of fisheries for the Province of Prince Edward's Island in 1883, before this treaty was made or had been mooted. This is in reply to an accusation made by the fishermen there that the seines were destroying the shore fisheries to the hook-and-liners. The inspector examined the complaint, and says:

At the very time that the committee of the International Fisheries Exhibition is about to induce an American fishing vessel to visit British waters for the purpose of teaching British fishermen the art of seining, continued complaints are made to me by a certain class of line fishers against seining, on the plea that the use of the seine scares mackerel from the hook.

After showing these complaints to be groundless, Inspector Duvar continues:

It is true some Americans seined successfully this season within sight of land, but as a general rule they prefer sea-room, and usually find their schools beyond the shallow waters of the hook-and-liners. * * * Further inquiry shows that hook-and-line in shallow water, or inshore fishing, must be abandoned by British fishermen, and that seining must eventually be the recognized practice for the main mackerel fishing.

He adds:

More seine-boats, and merely picking up stray schools within the three-mile Canadian limit, will be found quite inefficient. Schooners of some burden would take the place of shore boats, and would scatter themselves over the Gulf, as do the Americans.

That is, if the British fishermen would pursue the mackerel fishing efficiently they must leave the inshore shallow waters, and, like the Americans, fish off shore, in the deep waters of the gulf, where the body of mackerel are to be found.

BAIT.

The matter of bait has been alluded to. Provincetown is the second port in importance in amount of tonnage and number of vessels that visit the Grand Banks, Gloucester being the first of New England; and I would say that there has not been a single vessel of the entire fleet of this port that has touched a Canadian or British port for bait this season, and that within the last five or six years there have been perhaps on an average two vessels that have gone into Newfoundland to purchase squid. It will not exceed two vessels.

I also wish to call attention to the fact that the Canadians are indebted to United States for bait, as well as our vessels to them. There is a large amount of bait purchased by them from Maine; most of it goes from Maine; and when the gentleman who furnishes this bait was here this spring I questioned him about this matter, and he told me that the total yield of clam beds in Maine was about 18,000 barrels; that the average annual sale to the British Provinces was 6,000 or 7,000 barrels, and that the average price for the last five years was 30¢ per barrel. That amount will go a great ways towards satisfying any convenience

we derive from not being allowed to procure bait from them. There is a class of vessels making short trips for fresh fish that run in there for bait, but they could be supplied from Eastport if necessary; they could stock up with bait at Eastport and ice it, and get it there in good condition.

Q. So that in your opinion there is no necessity for any American vessel going in there?—A. No, sir.

Q. The privilege of going in for bait is not worth anything?—A. No,

sir. There is another inconvenience and sometimes damage connected with it, and that is that while they are in there the crews frequently spend their money and draw upon the owners; so that it is generally considered undesirable by owners for the vessels to go in for bait.

TRADING LICENSES FOR FISHERMEN.

By Senator EDMUNDS:

Q. Have any of the fishing vessels that have left this port or this district, so far as you know, since the treaty terminated, taken out any other than mere fishing papers? Have they taken trading papers?—

A. Yes, sir; we have five fishing vessels that are now laid up, and one of them has been laid up for two years, a good vessel, because of her running in trade.

Q. What I am speaking of now is the custom-house papers issued to these vessels. They ordinarily take a fishing license?—A. Always.

Q. Have any of those vessels having these fishing licenses that have gone there this year taken what I will call commercial papers—that is, the same sort of papers as a vessel would take that wanted to go to Nova Scotia to trade?

Senator FRYE. What you call a permit to trade.

A. There are two kinds of papers. Fishing papers permit them to fish, of course, and then if they wish to go coasting they take out a coasting license. If they are going to trade to Nova Scotia or any foreign port they take out a register. The fishermen who thought they were liable to go in for any purpose whatsoever, to repair damages or for other causes, have taken permits to touch and trade.

Q. (By Senator EDMUNDS.) As well as being registered?—A. Yes, sir.

Q. You speak of their being registered. If they are going in for the purpose of buying ice, for instance, would you call that trading?—A. No, sir. We consider a fishing vessel has authority to procure bait or anything that is necessary for the fishermen.

By Senator FRYE:

Q. Under the permit to trade?—A. Under the fishing license. There has never been any question raised on that point.

By Senator EDMUNDS:

Q. Have any of these vessels taken out any different or more papers this year than before?—A. More of them have taken out permits to touch and trade, but very few have used them. Perhaps there may have been half a dozen vessels that have been in, either going to or coming from the Grand Banks; I think the number will not exceed that, and probably will fall short of it.

RETAIL AND WHOLESALE PRICES OF FISH.

I have some statistics in relation to the retail and wholesale prices of fish.

Senator EDMUNDS. We should like them very much.

The WITNESS. I took pains to write to New Orleans, to O Milwaukee, New York, and Philadelphia, and saw some parties from Concord, N. H., and some fresh fish dealers on Boston, who were here, in regard to these prices. Generally we know here what the whole sale price of fish is in New York. The prices thus asked for and given were for December in 1872 and 1873, and up to 1885, so as to include the years before and after the treaty.

Q. Have you the prices for every month in the year, or only December?—A. I got only for December. It is a very difficult matter to get at these prices, and I had a good deal of trouble to get them.

Q. You have the prices for the same months in all the years for purposes of comparison?—A. Yes, sir. I thought December was perhaps as nearly a representative month as any.

In Boston fresh cod sold in 1872 from 8 to 10 cents retail; No. 1 mackerel from 20 to 25 cents.

Q. Twenty to 25 cents a piece?—A. Yes, sir. But the other item was 8 to 10 cents a pound.

In 1885 I found the prices the same as they were in 1872 and 1873.

In Philadelphia in 1872 cod sold for from \$6 to \$8 per quintal; the retail price of No. 1 mackerel was 18 cents.

Q. Do you mean salt mackerel, or fresh?—A. I mean salt mackerel. In 1873 the prices were the same.

In 1878 cod sold at from 5 to 6 cents a pound, and mackerel 15 cents. I will state that in that year the quality of the mackerel was exceedingly poor, and that accounts for the low price.

In 1885 cod retailed at 5 to 6 cents a pound, and mackerel were 18 cents.

In Concord, N. H., in 1883 and 1884 cod sold at 10 cents, as also in 1885; mackerel sold in those three years at 20 to 22 cents.

Q. Every time you speak of the price of mackerel do you mean by the piece?—A. Some were returned by the piece and some by the pound; but most of them by the piece.

Senator EDMUNDS. Then when you speak of the price of mackerel hereafter and mean to speak of the price per pound, say so, and then we will understand when you give the price of mackerel only that you mean the price by the piece.

The WITNESS. In Milwaukee in 1873 and in 1878 cod sold for 8 cents a pound, and mackerel at 20 to 25 cents each.

In 1885 the prices were precisely the same—8 cents for cod and 20 to 25 for mackerel.

In Chicago in 1873 cod sold at 10 to 12 cents a pound, and mackerel 20 cents each.

In 1878 they sold the same.

In 1886 they sold for 10 cents a pound, and mackerel 18.

In New Orleans in 1872 cod sold for 12½ cents a pound, and mackerel at 23 cents a pound.

In 1873 cod sold for 10 to 12½ cents a pound, and 20 cents a pound for mackerel.

In 1874, 10 cents a pound for cod, and 20 for mackerel.

Q. How much will No. 1 salt mackerel ordinarily weigh?—A. A good mackerel ought to weigh a pound and a quarter.

Q. That would be the average in half a barrel?—A. They ought to be that.

In New Orleans the price of cod was 10 cents a pound, and mackerel 17½.

In 1879 and 1885 the price of cod was 10 cents a pound and mackerel 20 cents a pound.

The average during the treaty for No. 1 mackerel was \$16.01 per barrel.

The average price of No. 1 mackerel in Boston in 1871, 1872, and 1885 was \$12.84½.

Q. For each of those years?—A. Yes sir.

By Senator FRYE:

Q. Less than the average during the treaty?—A. Yes. It was \$16.01 during the treaty, and was \$12.84½ before and after the treaty.

During the present season, to show how this thing operates, our vessels have been to Boston with fresh cod, and could not obtain 25 cents a hundred pounds for them.

Q. Fresh cod in good condition?—A. Fresh cod in good condition. At the same time they were retailing for 8 to 10 cents a pound. The truth is that they have all over the country been kept up at the high prices that were established during the war.

Q. You mean the retail prices? A. Yes.

It may be that some of the gentlemen present can give you better than I can the average prices for codfish in Boston, but according to the best information I have, I judge they have not been over \$2 a quintal, that is, 112 pounds.

Q. That is the wholesale price?—A. That is the wholesale price during that time. I had a minute somewhere showing what the wholesale price was in Philadelphia during this time; but the wholesale price was not half these last three years in Philadelphia what it was from 1873 up to 1884, and the retail price is unchanged, or is a trifle lower.

EFFECT OF DUTY ON THE CONSUMER.

By Senator FRYE:

Q. Then your idea is that the duty has nothing to do with the consumer?—A. Nothing at all. The fisherman cannot realize the cost of his catch, while the consumer has to pay these large prices. Of course that tends to destroy consumption and operates to cut it off largely.

By Senator EDMUNDS:

Q. Your conclusion is, then, from your information and observation in this business—and your opportunities certainly have been very good—that the provisions of the treaty of 1870 and 1871 did not operate at all to the actual advantage of the people who ate the fish?—A. No, sir; I think that is fully demonstrated.

Q. And that it operated to the disadvantage of the men who fitted out fishing vessels and the men who sailed in them?—A. Yes, sir. The profit is really reaped by the middlemen, by the dealers. It is for their advantage, undoubtedly, to have free fish; they invest a good deal less money and get larger profits.

THE COST OF CANADIAN OUTFITS, ETC.

By Senator FRYE:

Q. You have investigated somewhat the cost of outfits, and of supplying vessels, and generally the advantages the Canadian has over us?

—A. I have a little statement here that I took from a Canadian captain who happened in here with a load of salt fish last winter, and that will

perhaps give you as good an idea in reference to that as I could give you in any other way.

By Senator EDMUNDS:

Q. What kind of salt fish was it?—A. Cod.

Q. Dry, or pickled?—A. Dry fish, exported in bond. They were bonded here and exported, because they could get them so much cheaper than they could get our fish, although the fish were rather inferior to ours in quality. In this statement I do not give the name of the vessel, because I thought if I gave the name of the master and vessel it might annoy the captain when he reached home, for of course the statement I make would be known, and consequently I thought it prudent not to state the name of the vessel.

The vessel belonged to Yarmouth, Nova Scotia, and was of 79 tons burden. She made two trips to the Banks in the season of 1885 and returned with 2,400 quintals of codfish. The American schooner Benjamin F. Rich, of Provincetown, of 65 tons, owing to the greater distance from the fishing grounds, made one trip the same season, and brought into port 1,600 quintals of codfish.

The cost of the British vessel, prepared for fishing, was \$4,000, or \$50.63 per ton. The cost of the American schooner—17 tons less than the other, prepared for fishing—was \$6,500, or \$100 per ton. The outfits of the former—salt, bait, provisions, and fishing-gear, together with wages paid the crew—amounted to between \$1,900 and \$2,000. The same items cost the American vessel \$3,025. The wages paid the British crew were \$75 to \$82 per man. Those paid the American crew were from \$125 to \$190 per man.

Q. That is for the whole season?—A. Yes, sir. The season is one voyage with us. If our vessels are gone but two months it makes no difference, they get the same pay.

Q. The British vessel made two trips to the Banks?—A. Yes, sir.

Q. Is that \$75 per man for each trip?—A. I understand that is for the entire season.

The Canadian crew were required to prepare the vessel for sea, to receive and stow cargo, and to discharge her, and wash and stack or store the fish on her return to port. The American fishermen did not perform this service. The crew on the former vessel were obliged to wait for their pay until the fish were sold and money for them received, whereas the latter, the American crew, were promptly paid and discharged on arrival in port.

The curing, drying, and handling of the Canadian fish was done by women and girls, who received 6 cents an hour and 25 cents by the day. The curing, drying, and handling of the American fish was done by men, who received from 20 to 25 cents per hour, and that is always so.

WAGES, HOW PAID.

Q. When these men from this port on the fishing vessels are paid, are they generally paid in cash?—A. Yes, sir.

Q. They do not have to run up what is called a store account?—No, sir.

Senator EDMUNDS. From my experience in Canada—and by “Canada” I mean the whole of that eastern region—I understand, in general, that nine-tenths of all these British fishermen hardly ever see a dollar of their wages in cash; that they have a store account, just as is customary with some operative establishments, where goods are sold

at very high prices, and the operative comes out at the end of the year with nothing due him. The consequence is that the outfitter has a lien on the fishermen all the time, and the amount of profit that is made by that Canadian outfitter and vessel-owner is enormously greater for that reason, and the actual wages of the fishermen are very much less in proportion than the figures you give, because for every \$75 that they earn they get not more than perhaps half of that amount in real value in goods, whereas our men, being paid in cash, can buy, like everybody else, at the lowest cash rate.

The WITNESS. Our men are generally paid in cash. This vessel I spoke of, the Pearl Nelson, arrived one day and the men were paid off the next, and that is the custom. Your statement confirms precisely what this captain told me, that they were obliged to take a considerable portion of their wages in stores. It is to the interest of the vessel-owners for the men to go on shares, but it is found impracticable to get them to do so. They usually carry one or two sharesmen, and sometimes others of the crew will go on part shares. But the men here generally have families, and they don't want to take the risk. They prefer a fixed sum, so that they will know how to make their calculations, and so that when there is a loss that loss will fall upon the owners, as it has the last few years.

SUBSEQUENT CURING OF FISH BROUGHT IN FROZEN.

By Senator FRYE:

Q. I want to call your attention to this fresh-fish business.—A. It is a very serious matter in connection with the fisheries.

Q. Their admission free of duty?—A. Yes, sir; there is a very large amount brought in.

Q. You remember the language of the tariff act, "Fish, fresh for immediate consumption"?—A. Yes, sir.

Q. Under that, your experience shows, does it not, that all fish come in in a frozen condition?—A. Yes, sir. That has not come directly within my jurisdiction, because we do not have entries of that sort. But I know, from the general business, and our own reports too, that that is the fact.

Q. From your experience in the custom-house, is there the slightest difficulty in bringing in a cargo of fresh halibut, for instance, in a frozen condition and transporting them to Boston, New York, or anywhere else, and subsequently curing them?—A. None at all; there is nothing to hinder it. The only question to settle at the custom-house is whether that fish has not been salted or cured in some way. If it is fresh, that is all we have to consider.

By Senator EDMUNDS:

Q. Suppose I come to-day with fifty tons of frozen salmon into this port and want to make a regular entry, what would you do?—A. Under the ruling of the Department and precedents, I should be obliged to enter them free.

Q. You would consider that they were for immediate consumption?—A. Yes, sir.

Q. Suppose, further, that, having made my entry and paid my duty, I take my fish ashore, put them into ice-houses, and come back and say to you, "Now, Mr. Gifford, I have got clear of you; 'immediate consumption' to me means that I am going to carry that stock of fish to supply the shoresmen here just as long as I can keep them frozen; the

last one probably will not be eaten for six months"; what would you do then?—A. It would be beyond my jurisdiction.

Q. Although I told you that I intended to do so?—A. Yes, sir.

By Senator FRYE:

Q. Take that same cargo, and is there any difficulty in transporting it to any point in the country under the present system of refrigerator cars?—A. Oh, no.

Q. Is there any difficulty in keeping them for months?—A. No, sir; they are just as much preserved as though they had been salted.

By Senator EDMUNDS:

Q. Practically I understand you to mean then—it is obvious enough—that the words in the law, "for immediate consumption," as to fresh fish, do not amount to anything at all?—A. Not to anything at all for fish that come fresh.

FRESH FISH.

By Senator FRYE:

Q. Has not this modern process of freezing fish and transporting them over the country in refrigerator cars immensely increased the consumption of fresh fish?—A. Oh, yes.

Q. What effect has that had upon the consumption of salt fish?—A. It has decreased it very much. For the past three years they have been running fish through to Chicago, both dried and fresh. They used to have a pretty large market in Chicago for our fish, but in the last three years that market has been principally supplied by the Canadian fish run right through.

GRAY AND WHITE HALIBUT.

Q. Is it a fact that the gray halibut is the halibut that is smoked?—A. Yes, sir.

Q. And the white is marketed fresh?—A. Yes, sir.

Q. Is it also true that the same cargo of halibut will have portions that will be gray and ought to be smoked and other portions white that ought to be marketed fresh?—A. Yes, sir.

Q. Then would not the result be that part of an ordinary cargo ought to be sold as fresh and part as smoked?—A. Yes, sir.

Q. What means would you, as a custom-house officer, have of knowing that half of a cargo of halibut was subsequently smoked and half of it was sold fresh?—A. Even if I did I don't see how I could interfere. The question is whether, when the entry is made, the cargo comes within the terms of the law admitting it free, and if it does, that is as far as I can go with it.

Q. Under the decision of the Treasury Department in the case at Gloucester you understand that it is fresh fish?—A. Yes, sir.

TARIFF ON BOTH SALT AND FRESH FISH.

Now, in relation to the tariff, I don't know of any good reason why we should not have a tariff on fresh fish as well as salt. The Canadians have a tariff on all fresh fish that come into their country, just as they have on salt fish. Their tariff is a cent a pound, and it is only a fair tariff as compared with the duty on other products. Three dollars and fifty cents would only be an ordinary and fair price for cod. That amounts, I think, to only about 13 per cent.

Q. That is "a tariff for revenue only"?—A. A tariff for revenue only; that would perhaps be as high a duty as would be judicious to place upon it.

IN-SHORE FISHING AND OTHER CANADIAN PRIVILEGES.

Q. Do you know anything that our fishermen desire of Canada?—A. No, sir. They have only just one thing that is of any sort of value to us, and you have heard what that is—the privilege of going in there and of perhaps purchasing some little thing that they may be out of, as a matter of convenience; but that is a trivial matter. So far as transportation is concerned, I think we have in some cases availed ourselves of the privilege of transporting home the catch of mackerel.

Q. Through Canada?—A. Yes; to Boston. But, so far as the in-shore fishery is concerned, it is not worth any contention. You will find that when Mr. Johnston was Canadian secretary of marine he stated that the shore fishermen who are pursuing this in-shore fishery, as a class of men, are constantly poor and are really paupers; their Government is continually compelled to help them. He says they spend their lives in mending old nets and dogging around the shores without accomplishing anything.

THREE-MILE LIMIT.

Q. Do you know the fact that it is shown by the statistics that during the twelve years of the treaty the average number of our vessels going within the three-mile limits was 93½ a year?—A. I have not examined that.

Q. Do you know that the statistics show that the actual cost of all the mackerel taken within the three-mile shore line was double the price obtained for them?—A. I should judge it would be, from what experience we have had in the ports on the Cape here; I should think it would cost all of that.

AVERAGE PAY OF FISHERMEN.

Q. It strikes me that you told me at Washington—can you tell me now?—about the average pay that fishermen all through this section get for a year's fishing.—A. No. I think likely it was Mr. Babson gave you that.

INSHORE FISHING.

By Senator EDMUNDS:

Q. Has any vessel from this district been interfered with?—A. I think Captain Kemp's is the only case. In fact, they have had very little chance to interfere with our vessels, because they have been kept away. This inshore fishery, you perfectly understand, is of advantage to the mackerel catchers only, and the mackerel interest is the smaller interest of the two. So that with our fishermen that privilege is perfectly valueless. We have never sent a vessel to fish inshore. During the treaty we had on an average about ten codfish vessels that fished those British waters, but just out of sight of land.

Q. Mackerel vessels go from this port, do they not?—A. We have eighteen mackerel vessels; nine of them, on account of the scarcity of mackerel on our own coast this year, have gone there, and one of them made a full trip, but only one. We have averaged about one vessel a year.



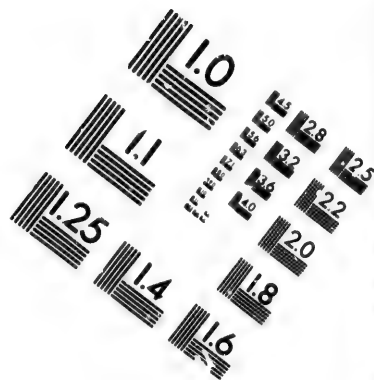
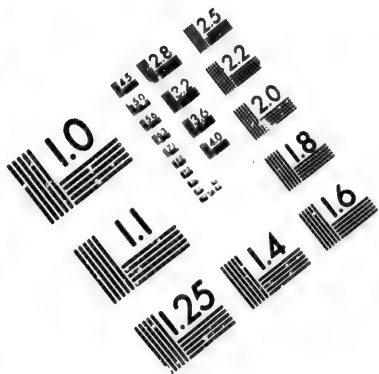
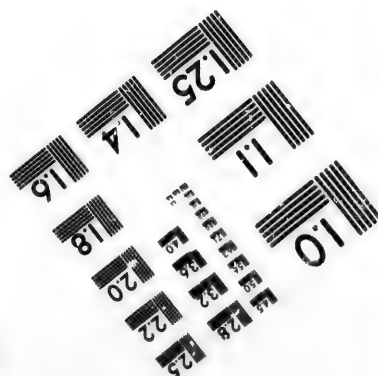
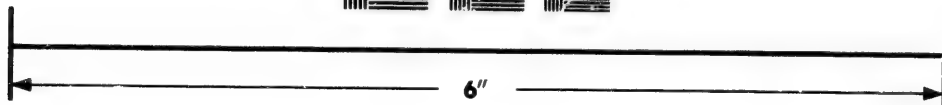
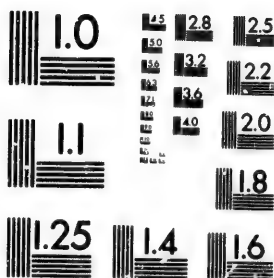


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TESTIMONY OF OTIS M. KNOWLES.

After the adjournment of the subcommittee at Provincetown on October 1, 1886, Otis M. Knowles, agent for the Union Fish Company, located at Provincetown, made the following statement, not under oath, which was ordered to be embodied in the testimony:

That his company is the owner of several mackerel fishermen; that during all the time of their ownership none of them have ever taken a mackerel within the three-mile shore line of Canada; that in 1884 the fishing schooner Emma P. Curtis, Captain Rich commanding, made a nine weeks' trip in the Bay of St. Lawrence, fishing outside the three-mile shore line, and caught 125 barrels of mackerel, on which she stocked \$916.79; that during the same time and the same length of time the schooner Alice captured on the American shore 956 barrels, on which she stocked \$6,000; that also during the same time and the same length of time the schooner Stowell Sherman captured 700 barrels on the American shore, stocking \$5,000.

TESTIMONY OF S. S. SWIFT.

S. S. SWIFT also appeared under the same circumstances and made the following statement:

Is a dealer in fish and oils; is owner of fishing vessels at Provincetown, Mass., and is largely interested in the following named vessels:

Cost of schooner Annie R. Kemp.....	\$14,892 84
Cost of schooner F. Woodruff.....	12,591 70
Cost of schooner Ellen A. Swift.....	12,089 76
Cost of schooner Willie L. Swift.....	11,436 46
Cost of schooner Leon S. Swift.....	12,554 15
Cost of schooner Ethel Swift.....	13,742 88
Cost of schooner Nellie Swift.....	11,116 30
Cost of fish stores, flake yards, fish butts, wharf, &c., about.....	17,000 00

105,524 60

The expense to run his business was about \$8,000 per year.

As an illustration of the profits of the business, Mr. Swift selected the schooner Nellie Swift, and submitted tables for the years 1883, 1884, 1885, and 1886, as follows:

Schooner Nellie Swift, voyage 1883; number quintals, 2,829.

Whole stock.....	\$7,311 00
Great generals.....	2,689 20
One-eighth making fish.....	4,611 70
Amount oil added.....	576 40
One-fourth vessel's part.....	4,035 30
Small general bill.....	735 20
Crews' wages.....	4,739 50
Loss.....	1,190 10
	3,579 30
	394 00
	2,635 30
	3,210 00
	1,174 00

AMERICAN FISHERY INTERESTS.

657

Vessel's part.....	\$1,190 12
One-eighth and one-fourteenth making fish.....	54 25

Vessel's bills, \$868.86; interest, \$667.01; insurance, \$889.35.....	1,244 37
	2,425 22

Loss.....	1,180 85
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Taxes and depreciation not considered at all.

Schooner Nellie Swift, 1884; number quintals, 2,554.

Stock.....	\$4,320 13
Great generals.....	2,239 10

	2,081 03
One-eighth making fish.....	260 13

	1,820 90
Amount oil added.....	387 59

	2,208 49
One-fourth vessel's part.....	552 12

	1,656 37
Small generals.....	702 29

	954 08
Crew wages.....	3,903 25

Loss.....	2,949 17
-----------	----------

Vessel one-fourth part.....	552 12
Loss on making fish.....	48 45

	503 67
Vessel's bills, \$1,189.24; interest, \$667.01; insurance, \$889.35.....	2,745 60

Loss.....	2,241 93
-----------	----------

Taxes and depreciation not considered.

1886.

2,800 quintals, at \$2.10.....	\$5,880 00
Great generals.....	1,768 18

	4,111 82
One-eighth making fish.....	513 97

	3,597 85
Amount oil added.....	348 75

	3,946 60
One-fourth part vessel.....	986 65

	2,959 95
Small generals.....	934 65

	2,025 30
Crew wages.....	2,635 00

Loss.....	609 70
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Vessel's part.....	986 65
Difference one-eighth and one-fourteenth.....	93 97

	1,080 62
Vessel's bills, \$1,100; interest, 667.01; insurance, \$889.35.....	2,656 36

Loss.....	1,575 74
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Schooner Nellie Swift, 1885; quintals, 2,990.

Whole stock.....	\$7,256 37
Great generals.....	1,768 18
One-eighth making fish.....	5,488 39 686 05
Amount oil added.....	4,802 34 418 71
One-fourth vessel's part.....	5,221 68 1,305 30
Small generals.....	3,915 75 641 11
Crew wages.....	3,274 68 2,995 00
Profit.....	279 68
Vessel's one-fourth part.....	1,346 30
Difference one-eighth and one-fourteenth making fish.....	167 75
Bills, \$1,189.24; interest, \$667.01; insurance, \$889.35.....	1,472 98 2,745 68
Loss.....	1,273 68

TESTIMONY OF WILLIAM F. JONES.

BOSTON, MASS., October 2, 1886.

WILLIAM F. JONES sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Forty-four years.

Q. You reside in Boston?—A. I reside in Boston.

Q. What is your occupation?—A. I am a member of the firm of T. Jones & Co., commission merchants, dealing mainly in fish.

Q. How long have you been in the fish business?—A. I began in 1861, but was out of it for a time, being in the army during part of the war; then I have been in it since 1864 continuously.

Q. Do you fit out vessels?—A. No, sir. We are commission merchants, selling fish mostly from the British Provinces, though we deal to some extent in American fish.

Q. Where do your principals mainly reside in the British Provinces?—A. In Nova Scotia, principally.

Q. In what kinds of fish do you deal?—A. All kinds.

Q. What is the largest part?—A. Mackerel, codfish, and herring.

Q. Fresh, or salt, or both?—A. Salted mainly; a little in fresh fish but not very much.

EFFECT OF THE TREATY OF 1870.

Q. What was the apparent effect, on the fishery trade that you were engaged in, of the treaty of 1870-71, when the laws had been passed put it into effect, which, I believe, was about 1873; was it not?—A. It began July 1, 1873. You mean if there was any change at that time?—Senator EDMUNDS. Yes.

A. I am not aware that there was very much, except that certain of the cheaper grades of fish could not afford to pay the specific duty. It does not make any difference to my firm whether there is a duty on fish or not, provided trade is good and fish are bringing good prices.

Q. I am not speaking of its effect on your business, as to personal profits, but as affecting the quantity sold, the prices obtained, and so on.—A. The larger prices for fish were obtained about the close of the war, during the inflated period, when all kinds of goods brought high prices. The prices of mackerel, particularly, change greatly from one year to another, without reference to the duty. For instance, the price this year has been double that of last year.

Q. But you did not observe on the occasion of the free fish coming in in force that the prices fell?—A. They fell just before that time, and reaction came in 1871-'72. Prices had been exceedingly high up to that time—too high; but a reaction came, and there was a very large decline, and very heavy losses were sustained both in the winters of 1871-'72 and 1872-'73, just before this treaty came into operation. So that I don't think that any difference would have been shown by the introduction of fish free. In fact, I remember particularly the testimony before the Halifax Commission, wherein it was said by many Nova Scotians and the fishermen of the Provinces down there that to them it was a very good thing to have a duty, because they got so much better prices when fish were dutiable than they did during the years 1871 and 1872, when fish were free. That was simply due to the natural operation of the courses of trade; but they thought they had better have duty on because they got so much better returns from their fish during that time. That, however, was the inflated period during the war and just afterward, when prices of all kinds were exalted.

Q. That, I suppose, is not your opinion?—A. No; it had nothing to do with it.

Q. That was a delusion?—A. Take this year and last year. Last year prices of all kinds of fish were exceedingly low, and there was a surplus. This year everything except codfish is very scarce, and the prices of everything have advanced a great deal. In many things we are obliged to-day to go to Halifax or St. John, and to pay whatever prices they choose to ask.

Q. For what kind of fish?—A. For herring, mackerel, salmon, and for shad. However, the capture of shad does not amount to much this year. In fact, the capture of pickle fish of any kind this year is the smallest ever known.

Q. That is true of salmon?—A. That is true of salmon. Mackerel which last year brought \$5 at this time are worth \$10.

Q. Then how is it that the fishermen think that they are having a hard time?—A. I don't know. I think the figures prove that the fishermen are not injured by duty on fish, because during the—

By Senator FRYE:

Q. By the freedom from duty you mean?—A. Yes, sir. The fishermen are not injured by the freedom from duty, because during the thirty-one years before 1885 the American fishermen made all their profit. I have jotted down a few figures—

By Senator EDMUNDS:

Q. Wait a moment. I want to ask you one or two more questions. I do not think you quite understood, or have not answered my last question. You say that the prices of fish, they being scarce, are higher this year than last?—A. Yes, sir. That has been because there have been fewer fish caught.

PROFITS OF FISHERMEN.

Q. Have the fishermen been making more profit this year than last?—A. No. A few of them have done fairly well, but the greater part of them have made very heavy losses, that is, in the mackerel fishing. In the cod fishery the catch has been large, and it remains to be proved what the result will be. My own opinion is that, all kinds of pickle fish being scarce, the consumption of codfish will be increased, and there is a hope, which there was not a month or two ago, that they may come out and make both ends meet.

Q. But at this moment the fishermen's operations for this year have not been fortunate?—A. Very unsuccessful as a whole. Most of the mackerel fleet will lose a great deal of money; it won't begin to pay; some of them have got nothing.

Q. Although the prices have risen?—A. Yes, sir.

FISHERIES STATISTICS.

Senator EDMUNDS. Now you can go on and give the figures you spoke of a moment ago.

The WITNESS. The United States census for 1880 gives the capital invested in the New England fisheries at \$19,937,607; the product was \$14,270,293. I deduct ten per cent. for the expense of doing the business; that is an ordinary allowance in general business; that leaves \$12,843,264. Take 40 per cent. for the share of the vessels; that is the general settlement for the shares of vessels. That 40 per cent. would be \$5,137,305, or nearly 26 per cent. dividend on the investment in the New England fisheries. That is from the last census report I have seen, for 1880. But the years 1881, 1882, and 1883 were better years. There were larger profits made, and the business will probably show better results.

Q. Why do you stop at 1883? Why not bring your statement down to this time?—A. Because in 1884 there was an excessive catch of mackerel, the largest catch ever known, and that was a poor year, owing to the large catch.

Q. How much did they make that year?—A. I don't think they made anything that year.

Q. How much did they make in 1885?—A. I don't know; there has never been any statement made.

Q. Do you mean to say that you can get figures for 1883, and cannot for 1884?—A. I have given you figures for 1880, and I say those are the last figures I have seen.

Q. You spoke of 1882 and 1883.—A. I say I know that they were better years in the fish business, but I cannot give you the figures. I merely say, in giving you the result for 1880, that \$5,137,305 would amount to a dividend of about 26 per cent. on all the capital invested in the New England fisheries, and that was considered a fair year. But the years 1881, 1882, and 1883 were better years; prices were higher and more profits were made.

Q. The figures you have given us for 1880 were, after all, probably really those for 1879?—A. No; I got them from the census report for 1880.

Q. But the census was taken in June, 1880, and it must have been taken on the product of 1879.—A. If that is so, that makes it stronger for 1879 was a poor year. I had taken it to be 1880,

Q. It can hardly be possible, I should think.—A. From 1877 to 1879 were poor years, I know, in the mackerel business.

Q. You have evidently given the figures for 1879, notwithstanding you got them from the census report for 1880; and then you say that the succeeding years up to 1883 were better still?—A. Yes, sir; I say that in those four years the profits, particularly of the mackerel fisheries, were exceedingly large. The schooner Edward E. Webster of Gloucester, stocked \$104,000 in those years ("stocked" is the term used in the business), and, in dividing, 20 per cent. is taken for expense of fittings, &c., 40 per cent. for the crew, and 40 per cent. for the vessel; there is over \$40,000 for those four years for a vessel that cost some \$10,000 or \$12,000. But there were many other vessels did as well.

Q. What fishing was she engaged in?—A. Mackerel.

Q. Where?—A. She sailed from Gloucester.

Q. Where did she catch her fish?—A. Wherever they were; they might have been on our shores or in the bay, probably on our shores.

Q. Were you agent for that vessel?—A. No.

Q. Have you been, from that time down to now, the agent for any American fishing vessels?—A. No.

Q. So that whatever your information is, it is not information derived from your personal knowledge of business transactions?—A. No, it is derived from the statements of the owners of these vessels made to our organization.

Senator EDMUNDS. I ask you this question, because, when we go over to Gloucester, which is the grand headquarters of these people, we should call their attention to the alleged very heavy profits that are being made in the business, and therefore I should want to know precisely what you mean and what your sources of information are.

The WITNESS. During the time these vessels were doing so well they were very good to give out for publication the results of their trips.

Q. Was the case of the Webster, which you mention, a case of extraordinary luck, or did that luck apply to the whole fleet?—A. The case of the Webster was probably a case of skill on the part of her captain. He has got a positive genius for catching fish, but there were other vessels that did nearly as well. The Nellie M. Rowe was fishing the last two years and she made \$55,000, which was really better in proportion.

Q. Supposing the whole number of vessels to be a thousand, what would be the average?—A. That we do not know.

Q. What do you think it would be, taking the whole business together?—A. I haven't any means of knowing what it would be for the whole.

Q. You do not mean to say, then, that you state the instances of the Webster and the Rowe as being fair samples of all the vessels engaged in the business?—A. Not at all; I merely wanted to show that it was possible to make such a large quantity of money. And I remember that the Commissioner of Fish and Fisheries, in his report published in 1883—I cannot quote from memory—after mentioning some of these large stocks of vessels, made a remark something like this: If it is remembered that these vessels fish only eight months in the year at the utmost, and most of them only from four to six months, it appears that the business has been very profitable for many, and that the greater part of the fleet made fair returns.

Q. That is the Canadian Commissioner you speak of?—A. No, the United States Commissioner. He makes that statement in the Report of the Fish Commission for 1883.

WHOLESALE AND RETAIL PRICES.

Q. How do the retail prices of fish in this market compare with the wholesale prices? What has been the advance per pound, or per cent., or any way you choose to state it, so that we shall understand it?—A. I don't know much about the retail prices.

Q. Do you know anything about it?—A. Well, I know that that is one of the things which do not vary very much. The mackerel market now is a fluctuating one, down one day and up the next, varying constantly.

Q. Take it last week, or to-day; what is the retail price of No. 1 mackerel in Boston?—A. There is hardly any mackerel eaten in Boston. Codfish—

Q. Do you think there is no retail price?—A. I suppose there is, but I don't know what it is; I never had occasion to inquire, I know that very few mackerel are eaten in Boston.

Q. Take codfish; are codfish eaten here?—A. Yes, sir; I should say that the retail prices of codfish would be probably from 6 to 8 cents a pound.

Q. What grade or number?—A. There is no number on codfish. It is simply a question of bank fish or shore fish.

Q. You do not mean those that are skinned and put up in boxes?—A. No; I mean the whole fish.

Q. What is the wholesale price?—A. The wholesale price to-day is about \$2.75 for bank fish and \$4 for the best shore fish per quintal of 112 pounds.

Q. Then the retail price is more than double the wholesale price?—A. Yes, sir; when I speak of the retail price I mean selling the fish singly.

Q. That is what you mean by "retail"?—A. Yes, sir.

Q. So that, if I went to you as a wholesale dealer, and bought 112 pounds, supposing you would sell me a package at the wholesale price, and then I sold it right back to you—if you traded with me as a grocer—you would pay me double what I paid you for it?—A. About double; but you must remember that they go through two or three or four different hands, and consequently there are that many profits on the goods. Then as to the retail price there is a difference. You may go to Blackstone street, where the dealers sell to the poor people, and they do not get the profits that the dealers do up town where they pay high rents and expect to get a good deal more. The retailers who sell to the poorer classes would vary the prices of fish more in accordance with the wholesale prices. I have seen them quoted down there at very reasonable retail prices.

EFFECTS OF THE TREATY OF 1870-'71.

Q. You did not observe any special effects upon the market from taking off the duty under the treaty of 1870-'71?—A. It resulted probably in an increased importation of the cheaper grades of fish.

Q. Now let me come to the termination of the treaty in 1885, when the duty was put on. Did you observe any effect on the market from that?—A. There was a very considerable falling off in the importations during the first three months of the year.

Q. How as to the prices?—A. The prices were not affected. We had here last year a large supply left over.

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wards was not affected, and we will assume that there were some importations, as I suppose there were?—A. Yes.

Q. Then the foreign importer, the producer of fish, had to pay his 50 cents or \$1 on a certain number of pounds—I have forgotten what it was; out of whose pocket did that dollar finally come? If the price in this market was not affected, it did not come out of the consumer or American middleman; then it must have come out of the foreign producer, must it not? He did not make as much by that sum, did he?—A. It came out of him for the time being.

Q. In that case it would be clear, would it not, that it must have been that much loss to him?—A. It came out of him on the things which we have on our shores. You must understand that there are some kinds and grades of fish that come from the Provinces that we do not get on our shores at all.

WHOLESALE AND RETAIL PRICES OF HERRING.

Q. Such as—A. Such as herring. All the fat herring consumed in this country are importations from the Provinces.

Q. We will speak of herring. Are herring graded?—A. They are graded as large, medium, and small.

Q. Take the larger herring, which are the best, I suppose?—A. Yes, sir.

Q. What was the wholesale price of herring during the season of 1884 and down during the winter of 1884?—A. I haven't looked up those points, and I could only speak from memory. I should say \$4.50 per barrel.

Q. How many pounds?—A. The Massachusetts law does not provide for any number of pounds. Say 200 pounds. That is the way we sell mackerel.

Q. Have you the retail prices for herring?—A. No.

Q. What was the wholesale price of that same kind of herring in the summer of 1885?—A. It began at \$5 and went down during the spring to the exceedingly low price of \$3.

Q. Which spring?—A. This last spring. There was a very heavy supply of herring last year.

Q. So that on herring, so far as it appears from your testimony, the putting on of the duty did not affect the wholesale price in this market?—A. No.

Q. And you have said that it generally does not affect the retail prices at all as to any kind of fish?—A. I speak more of codfish. I do not know what the retail price through the country is.

Q. I am talking about Boston; and Boston, we think, is quite a considerable part of the country.—A. Not as a consumer of mackerel or herring.

Senator FRYE. I suppose that when this witness speaks about the market for mackerel, herring, or anything of that kind, he refers to the wholesale price, and not to the retail.

The WITNESS. That is all I know about. We sell to the large ships, and I have no knowledge of retail prices.

Senator EDMUNDS. Now you can go on and state anything else you desire to. You spoke about some reports.

FISHING TONNAGE.

The WITNESS. I was going to say that the statement has been made that our fisheries were injured, and the illustration that has been given to show it was the decline in the tonnage. The decline in the tonnage

was owing entirely to different causes. According to the statistics of the United States Commissioner of Navigation, the average tonnage during the years 1854 to 1866, which was the period of the reciprocity treaty, was 155,179 tons.

From 1866 to 1873, when the duty was imposed, it fell to 89,034 tons.

From 1873 to 1885, during the operation of the treaty of Washington, it fell to 82,988 tons.

Now, the average tonnage fell during the time that we paid duty something over 60,000 tons, and when we had free trade again it only fell 6,000 tons.

Q. Since the duty was reimposed has the tonnage increased, or diminished?—A. It has decreased a little and will probably decrease a good deal next year, owing to poor success. If you follow the thing up you can see very closely that the tonnage engaged in fisheries varies up and down from year to year during a period of three or four years, according to the success or failure of the fisheries. I remember that in 1877, 1878, and 1879 we had very small catches of mackerel, and the fleet fell off a good deal. In 1880 we had a good catch. In 1881, and up to 1884, the fleet increased considerably. The mackerel fleet in 1881 was 298 vessels, with crews numbering 4,258; that is, New England—Massachusetts and Maine.

In 1884 it had increased to 361 vessels and 5,617 men.

The cod-fishing fleet in 1881 was 604 vessels, 6,402 men.

In 1884 it was 759 vessels and 8,778 men.

Now, I think 1881 and 1882 were the profitable years on account of the high prices of codfish. In 1883 there was a very considerable increase of the cod-fishing fleet, an increase of between fifty and sixty vessels and 900 men. That was the improvement for one year.

EXPORT TRADE.

One reason why I think our fishermen will receive more damage than benefit is on account of the export trade. We are going to sell all the fish that are exported, and we have a very considerable trade in provincial fish with Hayti. Within the last three days I have sold 3,000 quintals of codfish in bond to be landed here to be packed in Nova Scotia. That is a distinct injury to the interests of American labor, to do the packing of goods and to furnish the casks out of the country. That falls particularly upon the Maine fishermen rather than the Massachusetts. Massachusetts cod-fishermen pickle the codfish. That swells them up and makes them look white, and they sell some salt and water with them when they are sold. The Maine fishermen dry their codfish very largely, and in previous years they have relied largely upon this export trade, and have sold a large part of their codfish to be exported. We are now competing with them. My firm has been working up that business, and we are selling very large quantities. Mr. Nickerson, of Booth Bay, a member of one of the largest fishing firms in Maine, told me three days ago that he thought the effect of having a duty on fish would cause him a loss this year of \$5,000. He realizes the fact that it is going to hurt him very seriously in his sales of codfish.

Senator EDMUNDS. Just explain how that is.

CANADIAN COMPETITION IN LABOR AND MATERIALS.

The WITNESS. They can do the packing a little cheaper down there in Nova Scotia; they get their casks cheaper and their labor cheaper. On codfish it is a very close thing, and a matter of 10 to 12½ cents per quintal will result in turning the scale.

Q. If there were no duty, and if packing can be done cheaper there, why would they not do it still?—A. Because the customers here don't like to buy Nova Scotia packing; they prefer to do the packing themselves, and then they know what they are packing. They fear that if they trust it to somebody else some inferior fish may be put in.

Senator EDMUNDS. Taking the case you have stated, I do not see—probably it is because I do not understand the business—if you can find a market for your fish in Hayti, and if it is cheaper to pack them in the British Provinces than to pack them here, irrespective of the question of duty, why the temptation of the man who wanted to make the most money out of it would not be exactly the same.

The WITNESS. It is just as I tell you. They prefer to do their own packing. It has been a very difficult matter within the past year to get them to buy these Nova Scotia fish in bond, but we have now succeeded and are now selling them very large quantities. It may work that way again, supposing the duty should be taken off. But in the past, before the duty was imposed, the Maine and Nova Scotia fishermen were exactly on a par in regard to the sales of fish in this market.

HAYTIAN DUTY ON FISH.

By Senator FRYE:

Q. Is there any duty on fish in Hayti?—A. Oh, yes.

Q. How much?—A. I don't know what the duty is; it is quite large.

Senator EDMUNDS. Their duty is the same, whether the fish come from Nova Scotia or from Boston?

The WITNESS. Yes; it makes no difference. The duty this year has had a distinct effect in raising the prices, because the catch has been light.

IMPORTED AND DOMESTIC HERRING.

We are obliged to get the most of our herring from the Provinces, because we don't seem to get a supply. I have compiled some figures for five years, and I find that the only year in which the receipts of domestic herring in this port were anything like those from Canada was in 1880, when we had 26,492 barrels from domestic ports against 29,000 from Canadian ports.

The next year is 1881. In that year the American fisheries only produced 12,000 barrels against 44,000 in Canada.

In 1882 there were 10,500 barrels from domestic ports against 41,900 from Canada.

Eighteen hundred and eighty-three furnished 9,121 barrels from American ports against 84,650 Canadian.

In 1884 the domestic receipts were 7,885 barrels against 55,060 from Canadian sources.

Senator EDMUNDS. When you say that this year the duty has had "a distinct effect"—I believe that was your phrase—in raising prices upon herring, you mean that the American fish product and fish catch made the market price?

The WITNESS. No, not on herring at all. We only catch the cheaper grades of herring on our shores. All our best herring must be imported from the Provinces. We have no other sources of supply. Last year, as I told you, there was no supply. This year they have got a moderate catch.

EFFECT OF DUTY ON PRICES.

When we want to buy any goods we have got to give the prices that they name there, and then add the freight, duties, and other expenses; then they say to us, "If you want fish at that price, you can have them;" otherwise they won't ship.

By Senator EDMUNDS:

Q. So in that case you think that the duty is paid either by the wholesale dealer here, or by the retail dealer, or by the consumer, or by all of them together, as the case may be?—A. Yes.

Q. Do you know what effect the wholesale price has had this year upon the retail price?—A. No, I don't know. It must be higher.

HERRING.

In New England, as I understand, the herring are only eaten by the Irish population; I don't think anybody else eats them. They are in the habit of buying herring by the barrel, I fancy. The very small shop-keepers buy a single barrel of herring and peddle them out by the piece.

Q. So you do not know whether the peddling out to separate families of half a dozen a day has raised the price or not?—A. No. I don't come in contact with those people at all. The wholesale dealers and jobbers in Boston could probably give you information, because they are in communication with these people who make these sales, but I don't sell in that way. I sell to the wholesale dealer.

Q. You sell to the jobber?—A. I sell to the jobber. I do not come in contact with these people, and do not know anything about it.

Q. You think that the retail prices are higher?—A. I think the retail prices must be higher; herring are now selling at \$9.50 that were selling at this time last year at \$4.50, an advance of about 60 per cent. So I think the retail price must be higher.

Q. The retail dealer, however, who sold out his supplies in very small lots to families and was making 150 per cent. profit, might make profit enough on the whole business by not raising his prices, following the wholesale prices, and consequently having more sales?—A. Possibly.

Q. How that is you do not know as a fact?—A. All I know is that the jobbers tell me that it is difficult to sell the fish at the high prices; that it diminishes the consumption; that people cannot afford to pay those high prices. The Southern trade would certainly be very much affected. There is a cheap grade of herring that is used in the South. Herring worth last year \$1.40 per barrel in Halifax would cost here about \$2.75. We could not sell those; they would not take them off our hands; and the Southern people must have eaten something else. This year we know that they are beginning to want them. Herring are a little higher in Halifax. When business is generally good these fish come here and pay duties, and a profit is made. More than half the fish we import are of kinds that we do not get on our shores.

CODFISH.

In the pickle-cured codfish Massachusetts has no competition with the Provinces at all. Their fish are nearly all dried, and of those dried fish we are selling this year the larger part in bond. No Bank fish are coming here duty paid.

Q. The pickle-cured are all dried before they are sent to this country, are they not?—A. They are dried a little, not much.

Q. They are dried enough to pack in bales?—A. Oh, yes; they put them in boxes. They are the fish that a great many people like because they look white. They are really not so good a fish to those people who really know what a good codfish is. There is a market for all we can bring into this country of the best class of fish from the British Provinces, and no matter how low the prices of other fish may go, those best class of fish will always bring a good price. The best grocers in the city want those fish, and will pay for them, and will have them; and if there is a duty on them we have to make a larger price.

MACKEREL.

So with large mackerel. My firm has sold a great deal of mackerel to Gloucester and Portland, and even to Provincetown. Only the other day I sold \$1,000 worth of mackerel to go to Provincetown. We have always had a large trade with Gloucester. They would not come to Boston to buy fish and take them down there, paying freight on them, if they could get such mackerel from their own vessels.

Q. What are those mackerel?—A. Larger mackerel. The mackerel on our shores have run small of late years.

Q. What grade?—A. They are No. 1's or large 3's.

Q. Take that \$1,000 worth you sold lately to Provincetown; what grade were those?—A. Those were fat mackerel, mostly 1's and 2's, some 3's.

Q. What did you get for them?—A. We sold one lot, unculled, at \$10.50.

Q. You do not speak of unculled mackerel as large mackerel?—A. They are large and medium, not inspected—mackerel just as they were caught, large and small, the larger part of them being medium size. I sold some to Provincetown for \$15 a barrel.

Q. Were those sold for consumption?—A. Yes.

Q. For the home trade?—A. Yes, for the home trade. The Provincetown party we sold to is an owner of fishing vessels; he had no luck, and some one of his partners has been scouring the coast of Nova Scotia.

BOSTON TRADE WITH PROVINCETOWN AND GLOUCESTER.

Q. As I understand it, that Provincetown sale was for consumption at Provincetown and along the Cape, and the party who bought from you wanted to fill an order?—A. He wanted to pack them and sell them to wherever his orders may have come from.

Q. Is not the same true as to Gloucester?—A. Certainly. This is not a question of this year, because they have been doing it for the last six years. But I mean to say that when they come to Boston to buy Nova Scotia fish it shows that the American fishing vessels don't catch all the fish required for the trade of the country, not even mackerel.

Q. Or else it shows that those dealers at Gloucester and Provincetown want to fill orders, and not having the fish for that purpose, they send to where they can find them?—A. Exactly; that is all I say. It shows that they do not catch them. If their own vessels caught them, and they could get them from their own vessels, they would not come to Boston to buy them.

Q. If they had them at the particular time when they had an important order?—A. This is lasting right straight through the season.

We have had large customers in Gloucester, owners of fishing vessels, who have been customers during the year and at all seasons of the year.

Q. A steady trade?—A. Yes.

Q. Who are these gentlemen of Gloucester?—A. The largest firm and the one we sell the most to is the firm of George Perkins & Sons; and we have sold John Pew & Son some mackerel, but not very recently; I don't think we have sold them anything this year; I believe they are the largest vessel-owners in Gloucester; they certainly claim to be the largest fish dealers in the country; I don't know that they are, and I don't think they are quite so large as one or two Boston concerns, but that is the claim they make. Those two concerns buy the largest quantity of mackerel in this country. John Pew & Son are commission merchants.

DUTY.

Q. Suppose the duty that now exists had been taken off on the first of July last past, would you have sold these fish to those Gloucester people for any less?—A. I presume I should; yes, I think so.

Q. You would have been willing to break the market, take a less price, and make less profit?—A. I think the mackerel from Nova Scotia would have come here at an earlier period. The duty prevented them from sending the mackerel here in the early part of the season, but if the duty had been taken off that would have brought them here earlier, and they would have sold at lower rates. They sold them there because they thought there was no chance to do better. If there had been no duty we could have had the usual supply earlier in the season, but they could not afford to pay the \$2 duty, and so they did not send their fish here. If they had been sent here our dealers would have all got them at the lower prices, and consequently could have afforded to sell them at lower prices, and the consumers could have had them at lower prices.

Q. When the prices rose sufficiently to enable the Province people to afford to pay the duty, then they sent them here?—A. Yes.

NATIONALITY OF THE FISHERMEN.

Q. Now state anything else that you want to.—A. I don't know that there is anything else that I have in mind to say, unless it is on the question of the nationality of the fishermen.

Q. Vessel owners and officers, of course, are all Americans?—A. A good many of the captains are Americans, as a matter of form, but they reside in Nova Scotia.

Q. But they are American citizens?—A. They are American citizens; they have been naturalized as a matter of form, but a great many of them go home when the fishing season is over and live in Nova Scotia. I suppose 75 per cent. of the crews of American vessels are not natives of the United States. The two counties of Inverness and Cape Breton, in the island of Cape Breton, and Shelburne and Yarmouth, in Nova Scotia, furnish about five thousand men to our fleet. As to what other localities furnish I do not know. The cry was made last year that the fisheries were a training-school for the Navy, but that was so absurd that I thought it worth while to mention it.

COMPENSATION OF FISHERMEN.

Q. How much, if you know, do these fishermen of the Provinces, fishing in British vessels, make in a season? I mean the crew.—A. The

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crews of mackerelmen go on shares. The cod-fishing crews are paid about \$125. There is another point: The claim is being made that this is in the interest of American fishermen. During the time of free trade, before duty was put on, the fishermen were paid from \$225 to \$250 for a season, but that has been cut down to about \$125; it has certainly been cut down 40 per cent. That was justified by the condition of the business. Trade was languishing, and fish were bringing low prices, and they had to cut down their prices. So this shows whether or not it was in the interest of the fishermen to have the duty put on.

Q. You know a good deal about this Nova Scotia business and the prices paid to the crews of British fishermen. Do you know in what form their wages are paid, whether they are paid in cash when they arrive in the ports of Shediac, Charlottetown, Halifax, or wherever; or does the fisherman have a running account with the fitting-out man, and have goods charged against him for the use of his family and himself, and then settle at some time or other?—A. I suppose he has an account in some cases; it may be one way or the other.

Q. Have you any knowledge about that?—A. No; I haven't any special knowledge.

Q. The British mackerel crews, if I understand you, go on shares?—A. Yes, and their cod-fishing crews, too.

Q. I thought you said the cod-fishing crews were paid in cash?—A. In the United States.

Q. I am talking about the Provinces.—A. In the Provinces very few of them, so far as I am aware, are paid wages.

Q. When you were speaking of codfish just now, did you mean American?—A. I meant American; I meant the American vessel-owners had reduced the compensation 40 per cent.

Q. Then what you said about it being reduced from \$225 to \$125 applied to American vessels?—A. Yes, sir; that is about what they have been paid, so I have been told.

Q. Now I understand you to mean that all the provincial fishermen go on shares?—A. Almost entirely.

Q. Substantially?—A. Substantially.

DIVISION OF PROFITS.

Q. Leaving out the officers now, what share do the crews get?—A. The usual division is 40 per cent. for the vessel and 40 per cent. for the crew.

Q. Then what becomes of the other 20 per cent.?—A. The 20 per cent. is expenses of fitting.

Q. How is that 40 per cent. for the crew divided between captain and mate, if there is a mate, and the regular fishing hands?—A. I don't know. I don't think there is any universal rule about it. I think some captains who are better fishermen than others—and there is a vast difference between them, you know—get better pay.

Q. That is according as they can make the lay?—A. Yes; that is the usual and ordinary division.

REPORTS SUBMITTED.

Q. You had some reports you wanted to submit, did you not say?—A. I will leave them with you if you would like them.

Q. What reports are they?—A. They are reports of our fish bureau,

INCREASE AND DECREASE OF CANADIAN FISHERIES.

By Senator SAULSBURY:

Q. You are engaged in the fish business with the Provinces. I would like to ask you whether there has been, within your knowledge, any very large increase in the Canadian fishing fleet for the last few years?—A. I tried to get statistics on that last year from the inspector-general of fisheries for the Provinces; I have forgotten his name. He did not have any very complete record. Their fleet increased considerably about the beginning of the treaty of Washington, but last year it had fallen off considerably since 1879; 1879 was the highest point it reached, and it is considerably smaller to-day than it was. From 1879 to 1883 it increased, and since that time it has fallen off. But they had not got it figured up in the Dominion of Canada, and did not seem to have full and complete particulars. So far as he did give me information, however, I should say that it increased for a time and then decreased.

Q. Do you know whether the cause of that decrease was by reason of their sales of fishing vessels to French fishermen, or whether it was on account of any falling off in their business? Do you know whether they have made any large sales?—A. I don't know whether they have made any large ones or not. I have known of instances of vessels being sold to the French, because I have had drafts sometimes on that account, but I haven't particular knowledge as to the number. There are very few Nova Scotia vessels now engaged in mackerel fishing; that has fallen off very much; they used to send a great many vessels into the Bay. They now catch them with hooks, nets, and traps from the shore. Their mackerel fleet has fallen to almost nothing. I don't believe that there are twenty-five mackerel sailers in Nova Scotia to-day, when they used to have quite a considerable fleet.

PACKING IN BOND.

Q. If I understand you aright, you attribute the fact that you make sales of fish in bond here, which are packed in Nova Scotia, to the tariff that is imposed upon the fish?—A. Certainly.

Q. You think that the present tariff on fish has had the effect to prevent the shipment of fish here for the purposes of packing?—A. Yes. The Treasury laws do not allow packing in bond. That is a strict construction of the law, made by the present Secretary. Formerly, when the duty was on, and at the time when Judge Russell was collector at Boston, he took the responsibility of allowing fish to be packed in bond. The law says that neither fish nor anything shall be repacked except for the purpose of immediate preservation. I hold that it was for the purpose of immediate preservation, inasmuch as the fish could not be shipped to the West Indies in bulk. But the Treasury construction of the law is different.

By Senator FRYE:

Q. That is a new construction?—A. Yes. Their construction of "immediate preservation" means that the fish would spoil unless packed. We could not say that. We simply say they could not be shipped to the West Indies in bulk. Being shut out from that, by that ruling, we are now having fish packed in Nova Scotia and delivered here in bond in casks.

By Senator SAULSBURY:

Q. If I understood you aright, the result of that is that it deprives American labor of what it ought to have?—A. Yes; it deprives coop-

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Q. If you can form any idea I would like you to state what amount of labor is thus taken away, by the operation of this construction of the law, from these coopers, packers, and other laborers you mention.—

A. That I do not know. The fishing business is not a very large business compared with many other kinds of trade. The whole of the fish business of Boston is perhaps not more than that of one wool house. It is a small business in itself, but then, so far as it goes, this ruling does deprive these men, who have been engaged in packing, of their labor.

EFFECT OF INCREASE OF TARIFF.

Q. What would be the effect upon the fish business of an increase in the tariff?—A. It would make it easier to sell in bond. As far as the export trade is concerned, the higher you put the duty the easier it is to advance the price in bond and the more facilities you have for underselling American fishermen. For instance, the duty being now 50 cents, we can sell codfish packed at about the price in bond that they would get duty paid. If the duty was \$1 we could sell them 50 cents per quintal cheaper than they could produce them duty paid.

FISH EXPORTATIONS.

Q. About what percentage of your sales of fish is to the West Indies and other points in the foreign trade?—A. We have no foreign trade ourselves, but we sell to exporters. I have never made any estimate of the amount of fish exported, and do not know what it is.

Q. You do not export, yourselves?—A. Very rarely. We have not done so for several years. We sell to exporters. There are certain houses in Boston and New York that have this business with Hayti. That is the only West India trade we have here. The Hayti trade is the main foreign trade, and there is considerable of that in Boston and New York.

By Senator FRYE:

Q. To what countries do we export fish?—A. I say to Hayti.

Q. Do we not send some to France?—A. No.

Q. Do we not to Canada?—A. We did export some to Canada before the duty was put on.

Q. Do you know of any country to which we export fish where fish are free?—A. No. As I say, our export is mainly to Hayti.

BOSTON FISH BUREAU.

Q. I want to ask you a few questions about the fish bureau; I think Mr. Edmunds did not ask you about that. What is that institution?—A. It is a trade organization. I do not belong to it at present, but did last year. I went out of it thinking I was going to change my business. It is an organization composed of fish dealers and commission merchants. Anybody that is interested in the fish trade can become a member.

Q. Then it is not limited to commission merchants?—A. The majority of them are dealers; the commission merchants are in the minority.

Q. It is a general association?—A. A general association of the trade, comprising most of the principal dealers and commission merchants; some have belonged to it at one time and at another.

Q. Mr. Rich does not belong to it?—A. Not at present; he went out some two or three years ago, I think.

Q. No fishermen belong to it, I suppose?—A. No. At one time, a few years ago, it was more general, and we had members in Wellfleet and Provincetown. Then this Gloucester bureau was gotten up, and those men wanted to go into that, and we concluded to keep ours separate from the Gloucester bureau; but for a few years anybody could come in who was interested in the fish business.

COMMISSION MERCHANTS.

Q. With whom is the bulk of the commission merchants' trade conducted? For whom do they sell?—A. Some of us almost entirely for provincial shippers; others more largely for American shippers.

Q. Take the commission merchants altogether, and is not the bulk of the trade with the Provinces?—A. I cannot say exactly. The domestic trade of commission merchants was increasing until within a few years, and the fishermen had to go to market and sell their own fish, but they are giving it more and more to the commission merchants here.

Q. Are not a good many of your commission fish merchants Canadians?—A. No, sir.

Q. Are some of them?—A. One or two very small dealers who do not amount to anything.

LETTER IN THE BOSTON HERALD.

Q. Who was that gentleman whose letter appeared in the Boston Herald after your visit to Washington, in which he gave instruction to the members down there in the Provinces as to what they ought to do?—A. That was a private letter.

Q. It was published in the Boston Herald.—A. It was a private letter, and its publication was a great breach of confidence.

Q. Then you would not like to say who wrote it?—A. I would not; I do not think there is any occasion to do so.

Senator FRYE. I do not require it. I thought I would like to know, as a matter of curiosity.

TESTIMONY OF EDWARD T. RUSSELL.

BOSTON, MASS., *October 2, 1886.*

EDWARD T. RUSSELL sworn and examined.

By Senator FRYE:

Question. You reside in Boston?—Answer. Yes, sir.

Q. What is your business?—A. General produce and fish commission merchant.

Q. Are you a member of the bureau?—A. Yes.

Q. How long have you been a member?—A. Since its organization.

Q. How long have you been a fish commission merchant?—A. Forty years nearly.

FREE FISH.

Q. With whom is the bulk of your business conducted?—A. It is about equally divided between the Provinces and the domestic ports of Massachusetts and Maine,

Q. Please state whatever you desire to, touching the relations between United States and the Provinces with reference to the fish business.—A. I would like very much to see fish from the British Provinces come in free. I think, from the experience I have had during the existence of the two treaties, that the general business has been good. The prices obtained for our domestic fish have been good. With perhaps a few exceptional years the fish business has been paying about the same as any other business. That continued until 1883, I think it was, when there was a culmination of very high prices, particularly on codfish. Then came a rapid decline, just as there was in everything else. Low prices have not been confined to fish by any means, but have applied as well to sugar, flour, grain, iron, and everything. Prices have been phenomenally low. I would not go so far as to state that I would hold out very strongly for fish to be absolutely free, if it was thought that our fishermen needed protection, but I hardly think they do. I do think, however, that they need to be relieved from taxation on articles that enter into the construction of the vessels and many other things. I would rather go back to what the duty was before we ever had a treaty, and then it was 15 per cent. I think 15 per cent. is a pretty wide margin for competition to overcome, and that is fair.

Q. That was on all fish?—A. On all fish, dried fish and pickled fish of all kinds, as you will see by the old tariff act. That act did not prohibit, as the duty does now, the importation of low-priced fish. There are a great many kinds of fish we cannot produce, and I cannot see the necessity for the duty.

HERRING.

Q. Such as what? Name them.—A. All kinds of herring—not all kinds, there may be some exceptions; but all kinds that are what you call food-fish, particularly for this part of the country. You can't catch a fat herring on the coast of the United States; that is my experience; I never knew of one or heard of one. The herrings they are catching near our shores and bringing into this port by the thousand barrels every day are not the kinds of fish people would call eatable; they do eat them, but they are consumed principally among the manufacturing population that want something cheap. On the coast of Labrador is caught the finest herring in North American waters. Last year there was a very large catch, upwards of 50,000 or 60,000 barrels, of which I suppose nearly 25,000 barrels came into the port of Boston, and we sold nearly 13,000 barrels of them.

Q. At what prices?—A. We began at \$4.75; then with the depression on account of the great quantity and with the depression of everything else, they went down until we finally sold this spring at \$2.25, which brought the shipper in debt; one of the shippers owes me to-day. This year there is no catch, that is, we have heard that the catch of the Georges did not exceed 5,000 or 6,000 barrels. I sold one little cargo this week at \$6 a barrel. There is a certain quality they will have if they pay \$10.

EFFECT OF DUTY.

Q. You do not charge that at all to the duty?—A. I charge it to the scarcity of the market. Of course, the duty makes my business harder to do, but there is a certain quantity of business to be done here, and I am going to have my share of it.

SALMON.

We can't get any salmon in this country, unless we bring them across from Oregon or San Francisco.

Q. Do we not get them from the Pacific coast?—A. Oh, yes; I say we do. But those salmon do not compete with the northern salmon. They are used for almost an entirely different purpose, that is, a different class of people buy them. It may perhaps be a mere fancy, but the great bulk of northern salmon imported here are smoked. It is a little peculiar that a man will buy a whole salmon because it looks better, that is, a salmon that has a head and tail on, before he will the salmon that comes from the Pacific coast that is cut in pieces and pressed, with the head and tail cut off, and that will never bring so good a price although it is just as good to eat. There are some few exceptions, but that is the rule, which, in fact, is getting to be absolute.

By Senator SAULSBURY:

Q. Do the Oregon canned salmon come into this market?—A. Oh, yes, very largely.

By Senator FRYE:

Q. Do you deal in frozen salmon?—A. We do to a limited extent, for some people who ship them to us. We take anything that comes to us from the Provinces.

EFFECT OF DUTY ON THE CONSUMER.

Q. What is your idea of the effect of the duty on the prices to the retailer and to the consumer?—A. It is pretty hard for me to answer that question; in fact, I have never been able to fully make up my mind. Sometimes it stands out very evident to me that the consumer pays it, and then again it looks the other way. I don't want to express any opinion about it. On general principles I do not like to see high duties. The duties we have on fish were imposed at the beginning of the war, and they are too high.

Q. Your general idea is that duties should be low, not only on fish but everything else?—A. Yes; but I say particularly so on fish. I think the duty is altogether too high; I think \$2 a barrel is too much.

FREE FISH.

Q. The Canadians desire our market, of course; that is, they desire to send in fish free. What do you think they have in Canada to give us as an equivalent; I mean for the benefit of the fishermen?—A. I think entire freedom of fisheries. Here are some figures that are authoritative. This is the weekly summary of the fish bureau, something we get every Friday. It shows the importations for the week, and, of course, the importations up to this date for the season. Here are the figures for the New England catch of mackerel to date, from the beginning of the season up to yesterday.

Q. The season beginning in March?—A. In April. The catch was 62,111 barrels; of that quantity 51,825 barrels were caught in British waters.

THREE-MILE LIMIT.

Q. State what you mean by "British waters."—A. I mean in the Bay of St. Lawrence.

Q. Not within the three-mile shore line?—A. Oh, no. I call it American waters from Block Island to the Bay of Fundy. The fish caught

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our shore we call shore fish, though you might say, with the same propriety, "fish caught in American waters." Of course, the great bulk of these fish are caught almost in sight of Prince Edward's Island.

Q. But not within the three-mile shore line, following the sinuosities of the shore?—A. They say a great many of them do go within the limits, but I never saw it done.

Q. Do you think as good fish are caught within the limits?—A. About Prince Edward's Island I do not think as good fish are caught within the limit, following the coast line. This is my individual opinion, which I have formed after talking with people down there and with fishermen.

CANADIAN IDEA OF RECIPROCITY.

Q. I will ask you what their idea was as to what they had to give us in return for free fish?—A. I think that if they give us free fish, fish as we have had them under the last two treaties, and also the privilege of landing fish and refitting, it would be an immense benefit to our fishermen.

Q. Simply landing and refitting?—A. Refitting and landing fish. I am speaking particularly of the mackerel fishermen landing their fish at ports like Georgetown or Charlottetown and letting them come on by steamer to Boston, and then taking their salt in barrels and going back again.

THE MOLLY ADAMS.

I had an instance that came to my knowledge last year. The captain of the Molly Adams is a famous mackerel fisherman. Last year they had the privilege from the Canadian Government of landing their fish and forwarding them, and that man sent to Boston I think some 1,500 barrels in that way, and then finally came home with his last fare. This year I think he has made but two trips, and he has had to lug his trips home, and I think he might have done just as well this year if he had that privilege that he had last year.

Q. The season has not been so good, has it?—A. There have been a good many mackerel caught down there; I think you will find when the vessels get back that the Prince Edward's Island catch will be double the quantity caught the year before.

CANADIAN PRIVILEGES.

Q. Then there is the privilege of transportation through Canada?—A. Yes, and of getting their supplies, their barrels, salt, and ice. When you come to the question of bait for fishermen frequenting ports in Nova Scotia and Newfoundland, I am not so familiar with it. Quite a number of correspondents of mine in the British Provinces, notably in Nova Scotia, have been in the habit of supplying American fishermen. In fact, one man, who has been in the habit of coming here every fall with his collection of fish that he has caught, and which I sell for him, said to me last fall, "Mr. Russell, what am I going to do? I have got a big ice-house full of ice, and what am I going to do if your fishermen can't come in and get it?" I said, "You will manage to sell it some way; they will get in."

By Senator SAULSBURY:

Q. I want to inquire whether, if an American ship had the privilege of landing her fish to be transported by railroad through Canada to the United States, she could not make a better catch in a whole season than she can now, when she has to bring her fish home herself?—A. The chances are that she might quadruple her catch. A vessel can run in

from the fishing grounds into Souris, the nearest harbor, within an hour and be alongside of a wharf, and in three hours more she can land the fare of mackerel she may have; perhaps it is 300 or 400 barrels. Three days afterwards those fish can be on the pier in Boston, and that vessel may not have been in harbor over three or four hours.

Q. What is the locality of the fishing ground you refer to?—A. Right off Prince Edward's Island, the northeast corner of it, and between there and Cape Breton. The fish are plenty there; they are now moving that way at this season of the year, and according to reports in the last week they have been very plentiful.

HOOK AND LINE AND SEINE.

Q. How are these fish caught?—A. By seines. Occasionally some of the vessels are fitted out this year with hooks and lines.

By Senator FRYE:

Q. What proportion of your business is with Canada?—A. I think it is about half.

TABULAR STATEMENT SHOWING WEEKLY SUMMARY OF RECEIPTS BY BOSTON DEALERS.

Q. Do you desire to make the report to which you have referred in your testimony a part of your statement?—A. A gentleman came into my office to-day and said that some of the members of the committee here would like to have some of these reports.

Senator EDMUNDS. I think Mr. Jones gave us those.

The WITNESS. I heard Mr. Jones testify. I will leave these papers with the committee, any way.

By Senator EDMUNDS:

Q. Was that table you have in your hand prepared by yourself?—A. No, sir; it was prepared by the secretary of the fish bureau; it is prepared every Friday, and this is what was sent to my office yesterday.

Q. That covers what period?—A. From the beginning of the fishing season up to yesterday.

The witness then submitted to the subcommittee, as part of his testimony, the following tabular statement:

BOSTON, October 1, 1886.

Weekly summary of receipts by Boston dealers.	1886.			1885.		
	From—		Total.	From—		Total.
	Home ports.	Foreign ports.		Home ports.	Foreign ports.	
Mackerel*.....barrels.	1,060	2,797	3,857	4,757	1,931	6,688
Herring.....do..	3,069	756	3,825	1,615	4,086	5,701
Alowives.....do..		67	67			
Salmon.....do..		91	91			
Cod.....quintals.	3,843	381	4,223	9,101	5,749	14,850
Hake.....do..	750		750	985		985
Haddock.....do..	150		150	110		110
Cusk.....do..	60		60	90		90
Herring.....boxes.	1,000	5,890	6,890	6,176		6,176
Blonsters.....do..	215	203	418	1,742	270	2,012
Boneless.....do..	133		133	808		808
Mackerel.....do..	61	1,322	1,383	350		350
Lobsters.....do..		100	100		1,618	1,618

* Exports, 135 barrels; imports, 925 barrels.

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	1886.	1885.	1884.	1883.
	<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>
Fresh mackerel received week ending October 1.....	1,980	1,831	8,875	925
Mackerel imported from January 1 to date	57,162	23,002	44,397	48,409
Mackerel landed by United States fleet week ending October 1.	2,654	13,402	34,327	18,074
New England catch of mackerel to date	61,211	272,362	354,025	147,030
Number barrels of Bay mackerel landed to date				51,825
Number barrels of shore and Bay Island mackerel landed to date.....				9,388
Total				61,211

CODFISH.

The WITNESS. There is one other point: We receive from the Provinces from 500 to 1,000 barrels of codfish—a thousand may be rather high, though I don't know that it is—every ten days from Newfoundland. They mostly go to New York. That is a variety of fish not made within the limits of the United States. There is scarcely any salt put on them. They are very dry and very hard, and are mostly used for ship's stores on long voyages, and for shipment to such places as Central America and Aspinwall.

By Senator FRYE:

Q. Is there any special name for them?—A. They are called Newfoundland hard-cured fish, and they do not come in competition with anything that is made in this country. I have just ordered some from Halifax. Those fish will cost the man I ordered them from \$4.50 a quintal. We are selling these domestic fish all the way from 2½ to 3½; 3½ for Georges and 2½ for pickled bank.

By Senator EDMUNDS:

Q. Would it not be possible to cure fish in the same way on our coast?—A. It would be possible, but it will be one or two generations before that is done. It is only because customers have got in the way of liking these green fish that they are not cured on our coast. That is all there is to it.

Q. What is the duty on that kind of fish?—A. The same as on the other kind, half a cent a pound.

EXPORTATION OF FISH TO CANADA.

There is one other point I would like to touch upon; it may be that you have had some information in regard to it at Provincetown. I think I am safe in saying that every year up to 1882, perhaps, we have exported codfish from Boston and Provincetown, mainly from Provincetown, to Halifax, showing that there has been a higher range of prices for codfish in the Provinces than there has been in the United States. That is a fact which you can easily prove by statistics, because you can find the clearances of fish mainly from Provincetown.

Q. How would the imposition of our duties affect that?—A. They impose the same duty.

Q. Yes; but when we export there we have to pay it.—A. Yes; but there was no duty then; that was under free trade, of course.

Q. There have been no such exportations since the treaty?—A. No, I think 1882 was the last.

By Senator FRYE:

Q. They imposed duty before the Washington treaty terminated, did they not?—A. There was a duty in the interim.

Q. That was in their original tariff act, was it not?—A. I think so. I think the duty they impose now is the same as ours.

By Senator EDMUNDS:

Q. Leaving the question of duty entirely out of view, how do you explain it, as a mere matter of business, that fish should be exported to the Provinces from Boston, precisely the same kind of fish that they catch and cure in the Provinces? Is it merely because there happened to be, on account of their shipments and all that, a special order or want that they were not able to fill at that moment, or for what reason?—A. Probably the catch had not been so large as to enable them to supply all their demands.

Q. In short, their market was bare at that time?—A. Yes, they had not caught enough.

THE WEST INDIA MARKET.

The British Provinces supply all the West India markets, probably every one of them, with the exception of Hayti and San Domingo, and that trade is with the United States.

Q. Nearly all the other markets are theirs?—A. We can send there with the same propriety that they can; it don't cost us any more; but they have had that business.

Q. Do you mean that British fish go into Jamaica, for instance, at just as high a rate of duty and charge of every kind as American fish?—A. I do. Not any higher.

Q. That is the way you understand it?—A. I know so. I have tried it in Jamaica, Barbadoes, Trinidad, and Demerara. Their duty is exactly the same on shipments, whether from the Provinces or from the United States.

By Senator FRYE:

Q. In all of them there is a duty?—A. Yes, though it is very low in some places.

By Senator EDMUNDS:

Q. So that we, with our provincial neighbors, stand on exactly the same footing?—A. Exactly the same footing; there is no difference.

TESTIMONY OF EDWIN R. DE LONG.

BOSTON, MASS., October 2, 1886.

EDWIN R. DE LONG sworn and examined.

By Senator EDMUNDS:

Question. State your age, residence, and occupation.—Answer. I am nearly 52 years of age; reside in Boston; my business is commission business.

Q. In what?—A. In fish and general merchandise.

Q. Both salt and fresh fish?—A. Yes; largely, though, with salt fish very little fresh fish.

Q. Are you engaged in the fishery trade as a vessel-owner or anything of that sort?—A. No, sir; I am not.

Q. Who are your chief principals in your commission business?—A. At this present time the fish I deal in come largely from the Provinces.

Q. Your principals, then, are Canadian dealers, vessel-owners, and so on?—A. Yes.

CURING FISH.

Q. State anything that you desire to the committee.—A. We are in favor of having free fish, and I do not consider that it would be any injury to our fisheries here. A large part of the fish that are brought here from the Provinces are cured differently from our methods. Their codfish are what are called kench-cured (dry-cured), suitable for the West Indies trade. The fish cured in the United States are pickle-cured fish, and not suitable for export trade.

Q. That is to say, they are pickled in barrels or tubs aboard the vessel, and are brought here and taken out and dried?—A. They are kept in pickle until nearly the time of shipment, then taken out and given about three days' sun, which simply dries the surface. Those fish are then shipped. That one thing has done more to injure the salt-fish trade of New England than anything else that has ever happened to it, unless it is the fresh-fish trade.

Q. Is there any reason why our people cannot dry them dry?—A. No reason whatever, only our fishermen pickle them, and give them about five pounds of salt instead of three. The bulk of them cured that way become sour and stinking before a great while.

Q. What is the object of pickling them in that way?—A. They want to sell as many pounds as they can.

Q. When the fish are caught by the provincial fishermen on the Banks they pickle them there in the same way, do they not?—A. No, sir; they are dry-cured. The provincial people take those fish out of the hold of a vessel without putting them in pickle, but the Americans pickle them.

Q. When they are first caught on the Banks they are treated in the same way by both?—A. I don't know of any other way they could treat them.

Q. But when they are carried ashore in the Provinces they are thoroughly dried?—A. Most of them. There are a few pickled fish there. A few years ago Gloucester had all the fish. They wrote to my customers in the Provinces asking them to pickle cure there, and bring them to Gloucester instead of to Boston, and they would buy them; and there were a great many cargoes carried to Gloucester.

Q. So that the difference in the fish of the two countries is merely a difference in treatment after they get ashore?—A. Largely; yes. The kench-cured fish, as they used to be treated fifty years ago in New England, were sweet and sound, and could be sent to the West Indies or anywhere; but by this new process they are not suitable to be exported. If they get quite dry, the first moist day that comes they will get wet; they take the moisture very quickly.

PACKING AND EXPORTING IN BOND.

Boston formerly did a very large export business in fish; we supplied the West Indies very largely. But by changes of the law and by allowing provincial fish to come here in competition with our pickle-cured fish we have largely lost our trade. When Mr. Benjamin F. Butler was a mem-

ber of Congress he got a bill passed forbidding the packing of foreign fish in bond here. The fish were brought in bulk in the vessel and carried to store-houses, and previous to that time they had been packed in bond, put into packages, and exported to the West Indies. Mr. Butler got a bill through Congress forbidding that. The effect of that has been to drive most of the West India trade down to the Provinces. We have not had the benefit of it here.

KENCH-CURED AND PICKLE-CURED FISH.

Q. But that, if I understand you correctly, really results from the circumstance that the fish are not properly treated when they get here?—A. Our American catch. Only a few years ago Provincetown or Cape Cod used to kench-cure a large amount of her fish. But a man told me recently that there probably would not be this year 2,000 quintals of kench-cured fish. Gloucester has kench-cured her fish for many years. Some are kench-cured in Maine yet, though they are going into pickle-curing, as they get the same price for 5 pounds of pickle-cured as for 3 pounds of kench-cured. Many people don't know the difference, and servant girls really prefer pickle-cured, because they are always soft and ready to pick easily, while dry, hard fish would be hard to get ready to cook.

NATIONALITY OF THE FISHERMEN.

Q. State anything else that you desire.—A. In my dealings with the Provinces I have been made acquainted with the nationality of our crews to some extent. We have a great many orders sent us from the Provinces. These American vessels leave America with a sufficient number of men to go to the Provinces, and there they ship new men, and then after the catch they land that part of the crew before returning home. Those men that are landed down in the Provinces send orders here on the American fishing houses for their shares of the proceeds of the catch, as they fish on shares largely. So I know that a large number of men in our vessels, both masters and sailors, are simply provincial people.

Q. How can the masters be so?—A. They take out papers to become American citizens, but whether they ever complete their citizenship I do not know. Some claim to be natives of the United States when they are not. I have known a great many masters of vessels to make that claim when I knew that they came from the Provinces.

CURING AND EXPORTING FISH.

At the present time our fish are all pickle cured. There is a large export demand for fish to go to the West Indies, and we haven't got any.

Q. Why do they not take them out of pickle and dry them?—A. They would have to soak them all out again; there is so much salt in them that they cannot dry them. After a fish is once pickled it is difficult to be dried properly. They claim that by soaking out the salt again it can be done, but I think they are never so good as the original kench-cured fish.

TRADE RELATIONS.

The WITNESS. Have our trade relations and the volume of trade anything to do with the subjects to be considered by your committee?—Senator EDMUNDS. Yes; everything that bears upon the general question.

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The WITNESS. We ship during the year down there about \$900,000 worth of goods.

Q. Of all kinds?—A. Of all kinds; manufactured goods, flour, beef, pork, lard, butter, crockery-ware, fishing-tackle, and fishing-gear. There is no place in the world that I know of where a vessel could be fitted out so cheaply as at Boston or Gloucester. The cod-lines are made here; the only place in the world where they are made. I don't know of another place where they make cotton cod-lines that are used by our fishermen; they formerly used hemp lines that came from Europe, but they are not used at all now. Their cotton duck and cordage are bought here; their beef is bought here entirely, and pork and flour largely; also lard, and the oil-cloth which the sailors wear, and their rubber boots; fish-hooks, more or less; in fact, everything used aboard a vessel is bought here. We ship them ourselves.

Q. To be used by British vessels?—A. Yes, sir; entirely.

ARTICLES EXPORTED TO CANADA.

I can give you some of my orders during this last spring.

Q. You can state them in a general way.—A. I take them alphabetically: Apples and vegetables, alcohol, fishermen's leather boots, ship-bread, butter, beans, brushes, rubber boots, stove-polish, coffee, candles, corn, chocolate, cotton duck, dry goods of all kinds, essences, flour, furniture, canned goods, groceries of various kinds, hardware, tinware, lanterns and the like, jugs, kerosene-oil, mackerel-lines, cod-lines, cod-hooks, sole-leather, Seychelles and Manila cordage, molasses, nails of all kinds—oak-nails and ordinary cut-nails; oakum, naval stores, sails, pitch and tar, oars, pork, beef, lard, hams, linseed-oil, paints of all kinds, copper paints (for copper-painting vessels), peppers, spices, hats, caps, oil-cloth, sugar, what you call patent brass bushings for blocks, salt, tobacco (manufactured and unmanufactured), tea, tea-caddies, trunks, tallow, all kinds of biscuits, crackers and such like, brooms, pails, and wooden-ware, lamps and glassware, crockery-ware, dory-boats, paper, and paper books. Those are about the leading things.

CANADIAN CANNED FISH.

Q. You were speaking of canned goods; are there any fish canned in Canada and imported into the United States?—A. Yes; in the Provinces.

Q. What kinds?—A. Principally mackerel and lobsters; those are the two main articles.

Q. Do you operate in those things yourself?—A. Yes; we have some consignments of them, but that trade is very small with us.

Q. Are the processes of canning goods down there equal to ours?—A. The people there who can goods are mostly Americans who have started factories. I think you had a gentleman here yesterday or to-day, Mr. Pickett, who has a canning factory in Cape Breton. I suppose those men have their operatives from here, and I should suppose the work would be done in the same manner as it is done here.

TRADE RELATIONS AND PROFITS.

We sell about \$700,000 worth of goods where we receive perhaps \$200,000.

Q. Through your house to Canada?—A. Yes; we have sold about \$1,100,000 worth of goods every year lately.

Q. What is the general rate that commission merchants get on their operations?

The WITNESS: The profits?

Senator EDMUNDS: The commissions generally charged.

A. Not far from 5 per cent. on the average; sometimes we get less than that.

Q. Do you deal in American fish at all?—A. I have not recently; that was the first thing I did when I came to Boston. My first experience in the fishery business was fitting out Cape Cod fishermen, and I followed that for nearly eleven years.

Q. How long ago did you leave it?—A. I commenced in 1855.

Q. And continued down to 1866?—A. Yes, sir; I was originally in the ship-chandlery and ship-store business, but after the war prices went so high that our American vessels did not do well, and I was obliged to seek other business. That is how I came to get into the provincial business.

EXPORTS NOT REPORTED TO THE CUSTOM-HOUSE.

Q. Is there anything else you wish to suggest?—A. I would like to speak of exports. Formerly, under the reciprocity treaty, many vessels would go to the Provinces, carrying flour and other merchandise, amounting perhaps in bulk to 1,000 barrels. Those vessels were very similar to our State of Maine coasters; the captain and crew all had orders, and each was ashore buying goods. The same thing is done to-day, more or less. So that our custom-house here has no correct record of the export of goods from here to the Provinces.

Q. Do you mean that those things that the captain and crew had orders for would not appear in manifest?—A. Yes; and a large amount of goods shipped even to the merchants down there do not appear to-day.

Q. How does the vessel expect to clear without a true manifest of her cargo?—A. I will explain that to you: Say we have a vessel ready for sea to-day. You may say there are a hundred barrels of flour on her. The captain will go into the custom-house and get a clearance on the merchandise simply. After he gets his clearance something may happen preventing him from sailing immediately, and he may lie here three or four days before he gets off, during which time he may take on board a number of articles of merchandise, but he will not go near the custom-house again; he simply goes to sea with his manifest.

Q. When he comes back will he not be picked up?—A. No, sir. It would not really make any difference if he should happen to be boarded after he had obtained his clearance and had taken on board the additional articles, because his clearance only says "merchandise." It don't say whether he has one barrel or ten; it simply says "merchandise."

Q. That clearance does not contain a copy of the manifest, but does he not have to present a copy of his manifest to the custom-house before he clears?—A. He is supposed to do that. But there will be perhaps twenty merchants making shipments by that vessel; hat and cap men, hardware men, and different merchants here, who have had orders to send goods by that vessel; the captain don't know what is coming.

Q. His owners and agents ought to know what they take on board.—A. When the captain comes to get ready to go to sea he knows, but he never takes the trouble to go to the custom-house and make a full and complete statement of any additional articles that he may have taken aboard.

Q. Then he does; but t

Q. Suppose they come back one?—A. If yo

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out the country?—

Q. Then he does not obey the laws, does he?—A. No; I don't think he does; but the captains don't know much about the law.

Q. Suppose they were taught a little by being arrested the next time they come back, would not that be an advantage, if the law is a good one?—A. If you wanted to carry it out; but still they commit no crime.

Q. What is the use of having a law if it is not carried out?—A. I don't suppose he commits any crime when he goes to the custom-house and obtains his clearance for everything that he knows that he has on board.

Q. But he has no business to take anything afterwards under that clearance. The idea of a clearance is that the vessel is ready to depart with that amount of goods.—A. That is supposed to be the idea. But the coasting business between here and the Provinces is the same as the coasting between here and the State of Maine; it is done in a very easy and loose way; the captains are not educated men.

Q. Yes; but do not their owners know something about it?—A. No; some of the owners are farmers, and don't know anything about it; sometimes the captain owns his vessel, and sometimes it is owned by the fishermen. A great deal of that business is done by people who don't know how to make up a good, complete invoice, and that is often a great inconvenience to us, because they have so little business knowledge, a great many of them. Perhaps a saw-mill owner owns the vessel, by which he ships a little lumber, or fish, or potatoes, or cord-wood, or bark, or whatever it may be. Their invoices are very different from invoices coming from Europe. I do business in the island of St. Pierre. There are regular French houses there with whom we do quite a large business. They are regular mercantile houses, and their invoices are all straight.

Q. This home business I can readily understand, but I am speaking of the export business; though you have explained that sufficiently, perhaps?—A. The people in the Provinces who run these vessels have very little business knowledge.

Q. Is there anything else you think of that you desire to state?—A. I don't think of anything else.

EFFECT OF FREE TRADE UPON WHOLESALERS AND UPON CONSUMERS.

By Senator SAULSBURY:

Q. I would like to hear your reasons for the effect of free trade with the Provinces, as stated by you. I want to call your attention, first, to the effect of free trade upon the fish business here, and, secondly, upon the consumers of fish in this country.—A. I have been in the fish business since 1855, and from my recollections I should say that there has been greater prosperity in the fish business under reciprocity, or what we call free fish, than there has ever been under the tariff.

Q. Do you mean to apply that also to the fishermen as well as to the fish dealers?—A. Yes; I think our fishermen have had larger returns, because I think the quantity of fish caught has been greater, and we have had a larger export trade. We have done some business in fish; we have supplied the West Indies, instead of Halifax or some other provincial port supplying them.

Q. Your idea is that it applies to the fishermen and the merchant engaged in selling them?—A. Yes; all through. What I mean is that a quintal of codfish of the same quality has brought as much or more under reciprocity than it has under tariff.

Q. What is the effect of the tariff upon the consumers of fish throughout the country?—A. I was also going to state, before answering the

question, that the law of supply and demand seems to regulate the prices largely. Two or three years ago we had fresh fish, and we were selling codfish at \$6 to \$7 a quintal. Now we have a tariff, and it is difficult to sell them at more than \$2. There seemed to be a great demand for fish about two or three years ago, and I could sell five cargoes of fish more easily at \$6.50 or \$7 a quintal, according to quality, than I can to-day, with a tariff on fish, at \$2.25 or \$2.50; there was a greater demand for them and it was easier to sell them then.

FISH, KENCH-CURED *vs.* PICKLE-CURED.

Our people are getting these pickle-cured fish cheaper than they got them two or three years ago, but I don't consider that the fish they get are fit to eat. These pickle-cured fish are just about the same quality as a piece of salt beef would be after it had been taken out of a barrel on a hot day and laid around for two or three days; it would stink. A piece of thoroughly dried beef might lie around six months and be perfectly sound; that is different. I was at the Grand Pacific Hotel in Chicago last April; being very fond of fish, and seeing fish-balls mentioned on the bill of fare, I called for them; but when I put a piece in my mouth I got it out as soon as possible the fish was actually rotten. The fish I carry home to my house are dry, kench-cured fish, and they are just as sweet as anything can be.

By Senator EDMUNDS:

Q. Do you carry them home from your store?—A. After I sell a cargo I get some from the man I sell to.

Q. Do you get them at the same price that everybody else pays?—A. Yes, sir.

Q. What do you pay?—A. From three to four or five cents a pound; different prices. I have just sold three cargoes of kench fish in the last sixty days; the first cargo I sold at \$3.

Q. Do you mean to say that the price of good, sound codfish, kench-cured, at the groceries in Boston is only three or four or five cents a pound?—A. I sell to wholesale dealers; the retail dealers probably get about five or six cents a pound.

Q. And you sell for how much?—A. We do not get over \$3 a quintal.

Q. That is, the retail price is about double the wholesale?—A. Yes; just about double.

NUMBER OF FACTORY EMPLOYÉS GREATER THAN THE NUMBER OF FISHERMEN.

I would like to say one thing more. There are more than twice the number of people in the United States manufacturing the kind of goods that I ship to the Provinces that there are American fishermen coming in competition with the Provinces. The goods they buy of us for fishing vessels and such like, and for other purposes, give twice the number of men employment here in their manufacture—give them labor and wages.

CANADIAN TARIFF.

Q. Do you know the date of the Canadian tariff act, when they adopted what is called the protective system?—A. I can't tell the date; it was some six or eight years ago.

Q. What effect did that have upon your exportations of American goods to the Provinces?—A. It affected dry goods more than anything

else, I should think there.

Q. Suppose adopted that the exportations fell off, the trade has increased, say. I have a cargo I did not have a

Q. But under—A. Some. The two car-loads of they have a 30 Q. Kirk advanced effort, of course manufactured goods

Q. Do you do sir. We get a profit

Q. A profit as any commission we sell that on

Q. And you do—A. Yes, sir.

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Q. How much Canadian tariff; in the business; the same here.

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Senator EDMUNDS talked it up well.

The WITNESS.

2 1/2 per cent. profit

we have shipped barrels of that, and

Q. When you stock six months

A. We have to fill

Q. How long do we receive an order for

that amount on I always have more

order what we have

Q. In making and all that?—A. Q. So that you

good profit. Of course always get it.

else, I should say; hardware and agricultural tools still continue to go there.

Q. Suppose it was six years ago, which would be 1880, that they adopted that heavy tariff; can you tell us how much your own exportations fell off in consequence?—A. They haven't fallen off any; our trade has increased there, for we have made greater effort, you might say. I have a man traveling there all the time, whereas formerly I did not have a man traveling there.

Q. But under the same conditions you think it would have fallen off?—A. Some. Take it within a short time; I have sold in Nova Scotia two car-loads of what they call James Kirk's Chicago soap, although they have a 30 per cent. tariff on it.

Q. Kirk advertised himself into glory?—A. Yes. He makes great effort, of course, and sends out show-bills and the like. We still sell manufactured goods there.

PROFITS OF COMMISSION MERCHANTS.

Q. Do you do all this exportation business on commission?—A. No, sir. We get a profit on a large share of it.

Q. A profit aside from your commission?—A. No, sir; we don't charge any commission at all on what we sell; but when they send a cargo here we sell that on commission.

Q. And you actually sell to them the return cargo and make a profit?—A. Yes, sir.

Q. Have your profits fallen off on the same kinds of goods since the passage of the Canadian tariff act?—A. They have, some.

Q. How much?—A. I cannot say that it has been on account of the Canadian tariff; it was on account of competition; there are so many in the business; they are cutting finer and closer every day. It is just the same here.

Q. If you choose to, merely for our information, you may state what the profits are in your business, and what you would consider a fair profit to make in the export trade; or, to make it straight as between us, how much do you make on your exportations of these goods you sell? You need not answer if you do not want to.—A. I fear we do not average over $2\frac{1}{2}$ per cent.; on some goods we get 5. On these job cargoes we perhaps get 8 to 10 per cent. A man will spend as much time in selling 8 or 10 barrels of flour as he will on 125 barrels.

Senator EDMUNDS. I should think it would take more time if he talked it up well.

The WITNESS. If a man buys 500 barrels of flour from me and I get $2\frac{1}{2}$ per cent. profit, I should be satisfied. Take the article of kerosene oil; we have shipped during the month of September perhaps 2,500 barrels of that, and perhaps we got 6 or 7 per cent on that.

Q. When you say $2\frac{1}{2}$ per cent on flour, if you had had that flour in stock six months there would be the question of interest to consider?—A. We have to figure that.

Q. How long do you generally keep flour in stock? When you receive an order for a thousand barrels of flour do you generally have that amount on hand, or do you have to go out and buy it?—A. We always have more or less on hand; we carry a stock of flour, and then order what we have not on hand.

Q. In making your $2\frac{1}{2}$ per cent. profit you charge interest, storage, and all that?—A. Yes, sir; we put that all in.

Q. So that your $2\frac{1}{2}$ per cent. is absolutely good?—A. Absolutely good profit. Of course, we try to get 5 per cent. on flour, but we don't always get it.

TESTIMONY OF HERBERT C. HALL.

BOSTON, MASS., October 2, 1886.

HERBERT C. HALL sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Thirty-five.

Q. What is your residence?—A. Somerville, three miles out of the city; I do business in Boston.

Q. What is your occupation?—A. Shipping and commission merchant.

Q. You deal in what sorts of goods?—A. We receive most of the products of the Provinces, and send goods down there.

Q. Do you deal in fish?—A. Yes, sir; we run a line of steamers down there.

Q. What kind of fish do you deal in?—A. We receive all kinds of salt fish.

Q. Not any fresh?—A. Generally not any fresh.

Q. Then you get salted mackerel, herring, codfish, pollock, hake, and all that sort of thing?—A. Yes, sir.

RECIPROCITY.

Q. State to the committee what occurs to you on the subject that you understand we are considering. You may state your views and give facts within your knowledge bearing upon the fishery question with Great Britain and the Dominion.—A. I am in favor of a reciprocity treaty between the two countries; I do not think it would interfere with our fishermen here very much, even if free fish were allowed, because a large part of the fish from the Provinces are different from the fish that are produced here.

Q. Different in the way Mr. De Long has stated, in being kench-cured?—A. Most all the fish from the Provinces are kench-cured and dried, and most all here are pickle-cured. We get large fat mackerel from the Provinces, and the most of the large split herring come from the Provinces.

Q. And they are the finest varieties of each kind?—A. Yes. We rely on that country for our supply of the best fish.

WHOLESALE AND RETAIL PRICES.

Q. How much higher is the wholesale price in this market, for instance, for these large, fat mackerel, than the price for the ordinary No. 3 mackerel?—A. I don't know what they retail for.

Q. I am speaking about the wholesale price.—A. No. 1 is worth \$18 to \$17.

Q. What are the fat ones worth?—A. The extra-fat ones are worth all the way from \$20 to \$35.

Q. Is that the kind you are speaking of as coming only from the Provinces?—A. Very few are procured from any other place; a large portion of the No. 1's come from the Provinces.

Q. When you come down to No. 2's, what are they worth?—A. From \$9 to \$12, according to the fatness.

Q. Where do the largest part of these come from?—A. The American vessels catch most of them down in the Bay of Chaleur, and down that way, and some are caught around here.

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THREE-MILE LIMIT.

Q. Before July, 1885, do you know where the largest part of these provincial mackerel came from, whether inside or outside of the three-mile limit?—A. I could not say. I have asked a great many from the Provinces, but have not been able to ascertain; a good many of those provincial people have been in my store, and I have often asked them about that; they say they catch a large number of them within the three-mile limit. But that is only hearsay.

Q. The great bulk of the mackerel are now caught in purse seines; is not that so?—A. Yes, I think they are. For the next month they will catch them at the Bay of Chaleur and around in that region in traps; I do not know whether they will do much seine-fishing or not, but I should think they would for a fortnight yet.

PRICES UNDER RECIPROCITY.

Q. Do you know anything about the retail prices of the three varieties of fish you have named—the extra fine, No. 1's, and No. 2's?—A. No, sir.

Q. Did you observe any difference in the prices of fish in this market following the treaty of 1870-71, which made them free?

The WITNESS. Difference in the price?

Senator EDMUNDS. Yes, the price at which you sold them to the jobbers,

A. Every year the price changes according to the supply and demand.

Q. But you were not able to detect anything that the change in the law effected?—A. As it has happened, the prices of fish have been higher during reciprocity; I presume that was on account of the smaller number of fish caught.

Q. You do not suppose that reciprocity made them higher; it was a question of quantity, was it not?—A. I should think so. But I should consider that reciprocity in times when fish were scarce would equalize prices better, that there would be no extremely high prices.

Q. That is, there would be a larger field to draw from?—A. Yes, sir.

Q. But whether that would affect the actual consumer you do not know, if I understood you a moment ago?—A. I think it would tend to keep prices so that they would not reach any extremely high limit.

RETAIL PRICES TO CONSUMERS.

Q. But I understood you to say that you did not know how the actual retail prices, to the great body of the people who go to the corner groceries to get their fish, are related to the wholesale prices at which you sell?—A. Fish are not worth so much in the Provinces as they are here; if we could import fish from the Provinces now, fish would be lower, I should think, but not much lower.

Q. Do you think they would be any lower to you or to me if we should go to Pierce's grocery down here, if there is any such man—and I believe there is—and wanted to buy six mackerel for breakfast to-morrow morning?—A. I don't know; I should think they might.

Q. You think he would fall accordingly?—A. It is pretty hard to tell that, but I should think he would.

Q. Do you know what is the general custom, rule, and practice among these retail men who sell to families, whether they regulate themselves, as jobbers and wholesalers do, by the general tone of the market, in all

goods, like cottons and everything else, or whether they have a standard price, making enormous profits at some times and smaller at others, without regard to the wholesale price at any time?—A. I should say they would fluctuate with the prices of the wholesalers, but not so much as the prices of the wholesale dealers.

Q. Have you any knowledge, or have you observed about that, or is that only a logical deduction that you make?—A. No, only where I live I often ask the price of fish.

Q. You find that the prices do go up and down some?—A. Yes. I think the fluctuation with the wholesale and jobbing prices would affect the consumer to a degree, but I do not think the fishing interest is the only interest connected with this matter. We run steamers down East, and we take everything—all lines of goods of every description.

TRADE RELATIONS.

Q. What is the name of your line?—A. Yarmouth Steamship Company.

Q. To what provincial ports do you go?—A. Yarmouth; that is the nearest provincial port to Boston.

Q. Is Yarmouth nearer than St. John?—A. Yes, sir; Yarmouth is about due east from here.

By Senator SAULSBURY:

Q. What is the distance from Boston?—A. Two hundred and forty miles.

Q. How large a town is Yarmouth?—A. About 7,000 or 8,000 inhabitants.

By Senator EDMUNDS:

Q. What products do you bring chiefly from Yarmouth?—A. Fish, lumber, and potatoes.

Q. Pine lumber chiefly?—A. Very little pine; about all their pine lumber is shipped to the West Indies from there. We get some pine from there, and very little hard wood.

Q. You get fish, lumber, and potatoes?—A. And spiling-wood.

Q. And what do you send out there on your return voyages?—A. We send flour, meal, provisions, and most everything. We do not have quite such a variety as Mr. DeLong, but we have orders for everything. The business has changed very much, however, within the last ten years. Before I went into the business my father was dealing with the Provinces about forty-five years.

Q. Have you observed any particular change in the last four years?—A. Not a great deal, only I think the amount of manufactured goods going down is growing less.

CANADIAN TARIFF.

Q. They put on a heavy protective tariff?—A. They put on a duty, yes, sir.

Q. And you think that has caused a diminution of our exportation of goods there?—A. Oh, very much indeed. I know that the lower Provinces are very desirous to deal with the United States; they do not like Canada. I know they express great dislike to the Dominion, and would rather deal with this country, sending up their goods here and taking back cargoes of anything they want, rather than to get anything from Canada. I know the boot and shoe trade between here and

the lower Provinces they get from Canada everything, although still the demand is shipped from there. That is on account of we could sell them have it.

Q. And yet I comes to the United States. Does that come from Senator EDMUNDS the United States? The WITNESS.

that the importation instead of a detriment to the trade into the

Q. You think that the production of flour because the Canadian they cannot compete

Q. And yet you and shoes, for instance, made, they take time to feel bound to be much their duty is to see a boot and shoe having nothing but

Q. I understood off on account of tirely, but I know a great many of there is a certain the duties paid.

AMERICA

Q. It is a question to the price he pays

Q. If he would for Canadian boots would sell at a high the same grade.

Q. Yes; and I see absolute free trade can goods would sell goods of Canadian price, because a better finish and

Q. Better made

Q. Made with more Yes, sir; the Canadian

By Senator

Q. Do you know country as go into the

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the lower Provinces has almost died out; all their boots and shoes they get from Canada now, and their dry goods and the larger part of everything, although they get more or less here of all kinds of goods. Still the demand, of course, is limited. A large part of their flour that is shipped from here now is Canadian flour; it comes here in bond. That is on account of the duty there. If it was not for the duty there we could sell them American flour altogether, and they would rather have it.

Q. And yet I suppose you know that a great deal of Canadian wheat comes to the United States?—A. Well, I shouldn't suppose much. Does that come across duty paid?

Senator EDMUNDS. It comes across from Manitoba and is ground in the United States.

The WITNESS. I did not know there was much; but I should think that the importation of wheat would be a benefit to the Western country instead of a detriment to all the dealers there, because it would draw the trade into the United States which goes to Canada now.

Q. You think that would have a tendency to diminish the Canadian production of flour, boots and shoes, and all that?—A. I think it would, because the Canadians are not up in manufacturing like we are here; they cannot compare with us at all.

Q. And yet you say that rather than pay the duty on American boots and shoes, for instance, which are very fine, although they are machine-made, they take the Canadian manufacture of those articles?—A. They feel bound to because they are so much less in price. I forget how much their duty is now, whether it is 17 per cent. or 35, but you often see a boot and shoe store down there selling Boston goods entirely, having nothing but American manufactured boots and shoes.

Q. I understood you to say that the boot and shoe business dropped off on account of the Canadian tariff?—A. It dropped off almost entirely, but I know they buy more or less boots and shoes from us yet. A great many of their people will not have Canadian goods at all. There is a certain demand for all kinds of American goods, even with the duties paid.

AMERICAN GOODS PREFERRED IN THE PROVINCES.

Q. It is a question, is it not, as to which the man prefers in regard to the price he pays?—A. Yes, sir.

Q. If he would rather pay \$3 for a pair of American boots than \$2 for Canadian boots, he does it?—A. Yes, sir; I think American boots would sell at a higher price down there than Canadian, even if about the same grade.

Q. Yes; and I suppose it is true, is it not, that, supposing there was absolute free trade between the two countries, a great variety of American goods would sell in Canada at a higher price than the same kind of goods of Canadian manufacture?—A. I think so; they will pay a better price, because they like the American manufacture better; they are a better finish and are a better style of goods.

Q. Better made every way?—A. Yes, sir.

Q. Made with more skill and better adapted to their purpose?—A. Yes, sir; the Canadian manufactures are all rough.

By Senator SAULSBURY:

Q. Do you know what is the average duty upon such products of our country as go into the Canadian country?—A. I think the lowest is 17½

per cent. I have a copy of a book down at the store that I will let you take, and that will give you all such information.

Senator EDMUNDS. We have the Canadian laws.

DECREASE OF EXPORTATIONS OF FISH.

The WITNESS. I might say here that the export of fish has almost died out; not altogether died out, but very much diminished.

Q. Because before you exported Canadian fish which were kench-cured?—A. Yes, sir; the American method of curing fish is not desirable.

Q. You have lost that export trade because of the difference between kench-cured and pickle-cured?—A. Yes, sir. We often bring up a lot of codfish from Yarmouth and send them south on the Metropolitan line of steamers to the West Indies. But formerly the trade was from our American houses here direct.

FREE FISH.

I think a treaty could be made with the Provinces to allow our goods to go in there free by allowing free fish here, and I think it would be as much benefit to the United States as it would be to the Dominion. I cannot see how it would very much affect the fishermen. Several of the Gloucester dealers have told me that they are more afraid of fish from the Provinces being sent out West directly to Chicago than they are of fish coming in here. A man told me—I think it was Mr. Babson—that if he was sure of the fish coming to Boston or Gloucester through the dealers' hands here, and not going out West, he would not care anything about it.

Q. You think that was Mr. Babson, of Gloucester?—A. I think that was Mr. Babson; it was either Mr. Babson or a man with Mr. Pew, I forget which.

Q. Who was the man with Mr. Pew?—A. It was one of the gentlemen who were in Washington.

Q. (To Mr. E. R. DELONG.) Do you think it was Mr. Babson?

Mr. DELONG. I think it was one of the Cunningham firm.

The WITNESS. It was one of the gentlemen sent on to Washington.

Q. I suppose he meant by that, so far as he was concerned individually, that if they could control the whole business here he would not care?—A. If they could control the business here they would not care.

Q. That they would make more money under free fish than they would under the present state of things, I suppose?—A. They were only afraid that, in case of free fish, fish would be sent from the producers in the Provinces directly to the consumers out West or to the jobbers out West.

Q. And that the dealers here would lose their profit?—A. Yes, sir, he thought if the duty was kept on it would keep them out.

RELATIVE ADVANTAGES OF BOSTON AND THE WESTERN PORTS OF DELIVERY.

Q. But as the duty is the same at Chicago or Detroit as it is at Gloucester or Boston, the Chicago or Detroit man would get his consignments direct, just as well under the duty as without it, could he not?—A. He could really; but when a person is sending goods through the country in that way, and there is a duty on them, there is a great deal more trouble, expense, &c., in getting them there.

Q. How is it at Chicago and Chicago than railroad and pass

Q. You know that it could not make it?—A. I think it could.

Q. How?—A. For goods come to him through the barrels, it will cost if they are free goods through just the same.

Q. But I am on the taking him to be the will keep Canadian point is whether it now does, whether port of delivery in Boston far as the duty is collected laws and regulations through the custom-house.

Q. I wish you would orders 10 or 15 barrels the custom-house rule to pass through the couple of hours, or else attend to it for him.

Senator EDMUNDS.

The WITNESS. But border, and the goods Q. Yes; but if they here?—A. Yes, sir.

Q. Then, being free men from getting there?—A. Nothing at

Q. They stand on edge with the Boston men? cargo of fish, one or shipped from Halifax be shipped to fifty different

Q. That is a question. The receivers of fish from their cargoes through and what is required; kind of supplementary about the custom-house got to make inquiries and do it for him.

Q. Do your people here house directly, or do they

Q. Most of the large

Q. How is it any more trouble and expense to pay duties at Detroit and Chicago than it is at Boston?—A. Suppose the fish go through on railroad and pass through some intermediate port on the line—

Q. You know that Chicago is a port of delivery, and so is Saint Louis; so it could not make any difference so far as that is concerned, could it?—A. I think it could.

Q. How?—A. For instance, there is a merchant in Saint Louis whose goods come to him in bond at the custom-house; he has to put those goods through the custom-house. Supposing he has only three or four barrels, it will cost him from 25 to 50 cents a barrel to do it, whereas if they are free goods they are entered by the railroad company and go through just the same as they would to Boston or New York.

Q. But I am on the point of the tariff as it is now. Mr. Babson—taking him to be the man you refer to—wants to keep it so because it will keep Canadian goods from coming to our people in any case. My point is whether it would make any difference, with the law standing as it now does, whether the goods were sent to the Saint Louis or Chicago port of delivery in bond after they had crossed the line at Port Huron, so far as the duty is concerned, instead of coming here, the custom-house laws and regulations being precisely the same?—A. If you had been through the custom-house you would know the reason.

Q. I wish you would tell it to me.—A. A man in Saint Louis perhaps orders 10 or 15 barrels of fish, and he probably knows nothing about the custom-house rules and regulations; the custom-house business has to pass through the hands of different clerks, and may consume a couple of hours, or else it will cost him something to get somebody to attend to it for him.

Senator EDMUNDS. That I can understand.

The WITNESS. But if they go through free the entry is made at the border, and the goods are delivered the same as they are here.

Q. Yes; but if they are free at Chicago or Saint Louis they are free here?—A. Yes, sir.

Q. Then, being free, what is to hinder the Chicago and Saint Louis men from getting their fish directly from the Banks instead of from here?—A. Nothing at all.

Q. They stand on equal ground, the Saint Louis and Chicago men, with the Boston men?—A. Not exactly; a Boston man receives a whole cargo of fish, one or two thousand barrels; if that many fish were shipped from Halifax to western ports of delivery they would, perhaps, be shipped to fifty different people, and each of those persons would be obliged to go to the custom-house, pay duty, and spend time.

Q. That is a question of concentration of business?—A. Yes, sir. The receivers of fish here who would have the large cargoes would put their cargoes through the custom-house, knowing all the ins and outs and what is required; whereas the man out West who takes fish as a kind of supplementary article to his general business knows nothing about the custom-house ways of transacting business, and has either got to make inquiries and spend time, or else get some clerk or broker to do it for him.

CUSTOM-HOUSE BROKERS.

Q. Do your people here attend to their own business with the custom-house directly, or do they employ a broker?—A. We attend to it ourselves.

Q. Most of the large houses do?—A. A good many do.

Q. A good many have a man in their employ for that purpose?—A. Yes, for nothing else; but as for ourselves we put everything through ourselves.

Q. You do not employ any broker?—A. No, sir. We have so many entries at the custom-house that we are pretty well acquainted with it.

TESTIMONY OF CAPT. H. B. JOYCE.

GLOUCESTER, MASS., October 4, 1886.

Capt. H. B. JOYCE sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Thirty-nine.

Q. Where do you reside?—A. Portland, Me.

Q. What is your occupation?—A. Fisherman.

Q. Of what vessel are you in command at this time, if any?—A. The steamer Novelty.

Q. How large a vessel is that?—A. Two hundred and ninety-seven tons gross.

Q. How long have you been in command of her?—A. I had her the first of September last year.

Q. Had you been engaged in fishing before that time?—A. Yes, sir; always since I was old enough.

Q. What kind of fishing?—A. Up to the age of twenty I was mixed in with both cod and mackerel fishing in the season, and since that I have followed mackerel fishing altogether.

THREE-MILE LIMIT.

Q. Where did you fish for mackerel?—A. Usually in the Bay of Fundy and along the coast of New York and New Jersey.

Q. Did you fish up there in provincial waters during the existence of the treaty of Washington, from 1873 to 1885?—A. I was there in 1877 for three weeks; I was there in 1878 for seven weeks; I was there in 1880 for five weeks; and I was there in 1883 for two weeks.

Q. Was that the last time you were there in a sailing vessel?—A. I was there this season about eight weeks, I think, altogether, including the passages home.

Q. Before last year you were in a sailing vessel, I suppose.—A. Yes, sir.

Q. During all these years you have named where did you get your fish up there, as respects the inshore three-mile line?—A. I imagine I didn't fish much different from the way we fished this year. We fished anywhere, and didn't take any notice. This year we haven't fished within that three miles, so far as I know.

Q. A sea-faring man can judge tolerably well, can he not, whether he is inside or outside of that limit?—A. If he takes the trouble he can measure from his vessel, but it is quite a little operation; you have to make a line and get your bearing, and work it up by table, and if a man is very busy he wouldn't take the time.

Q. Can you not judge by the eye pretty well?—A. We can tell within half a mile.

Q. If you allow as to your locality

Q. What proportion you take, or whether fishermen, inside the tenth part.

Q. What has been for mackerel with what we call Ban that is mostly used the fishermen get

Q. Then, if I understand the British ports mackerel fishing inside for shelter in

Q. I am not speaking; we don't have

Q. Now, tell us many voyages you and so on?—A. We and went to the Gulf

had been circulated one kind and another to go up there with

on a cruise on this coal of what we need we ought to have had

coal, and went to the Dominion Day when we The next day I went

they call it, and I wonder else, and that we must time we got our war

Q. What kind of passage? Q. Was that all?—that over to the coast the United States had for our vessels.

Q. You did not have Pictou?—A. No, sir. Q. Did you get there

We went to Cape Prince of Wales to the custom-house Ottawa to know if we three-mile limit; we were

very anxious to furnish a man had a vessel loaded outside the three-mile limit contrary to law he was captain of the cutter free port and that we

Q. If you allowed half a mile for errors you would feel pretty sure as to your locality, whether it was inside or outside?—A. Yes, sir.

Q. What proportion of the fish you took up there this last year did you take, or what proportion do you know of being taken by other fishermen, inside of the three-mile limits?—A. I don't suppose over a tenth part.

BAIT.

Q. What has been your way of getting bait for cod? You do not fish for mackerel with bait now, I believe?—A. All the fishing I ever done, what we call Bank fishing, was always done with salt bait, and I think that is mostly used now. It is cheaper and saves time, and as a rule the fishermen get as many fish as with fresh bait.

Q. Then, if I understand you, there is really no object in going into the British ports up there for the purpose of getting bait?—A. Our mackerel fishing is nearer the coast, and it is often necessary to go inside for shelter in bad weather.

Q. I am not speaking of shelter; I am speaking of bait.—A. O, no, sir; we don't have any occasion to get bait up there.

THE CASE OF THE NOVELTY.

Q. Now, tell us your experience with the Novelty this year; how many voyages you have made, where you fished, what happened to you, and so on?—A. We started from Portland the 1st or 2d of July, I think, and went to the Gulf of St. Lawrence for mackerel. At that time it had been circulated in the newspapers that we could buy supplies of one kind and another there without any restriction; so we left this coast to go up there with only the balance of ice and coal that had been left on a cruise on this coast, and we were some thirty to forty tons short of coal of what we needed, and with only ten to fifteen tons of ice when we ought to have had thirty tons. We went directly to Pictou to get coal, and went to the dock, not apprehending any trouble. It was Dominion Day when we got there, so all business was closed that day. The next day I went to the custom-house, and they gave me warning, as they call it, and I was notified that we could not get coal or anything else, and that we must proceed to sea within twenty-four hours from the time we got our warning.

Q. What kind of papers did your vessel have?—A. A fishing license.

Q. Was that all?—A. I had a permit to touch and trade; I carried that over to the custom-house, but they did not recognize it; they said the United States had no authority to claim any privileges of that kind for our vessels.

Q. You did not have any clearance from Portland or Gloucester to Pictou?—A. No, sir; except simply that.

Q. Did you get the coal?—A. No, sir; we went away without it. We went to Cape Prince Edward's Island to a telegraph office and reported to the custom-house here, and telegraphed to the Department at Ottawa to know if we could not have coal delivered us outside of the three-mile limit; we did not get any answer to that. Parties there were very anxious to furnish coal to us, of course expecting pay for it; one man had a vessel load of coal there, and he said he would deliver us coal outside the three miles if he couldn't inside, and in case that was contrary to law he would take it over to Magdalen Island for us. The captain of the cutter there informed me that Magdalen Island was a free port and that we could buy and trade there. So I made arrange

ments to that effect, and went off to the fishing grounds, and waited a week or so, but our supply of coal being so short we couldn't wait very long. After we got a fare, and the coal not yet having come, we bought some twelve or fifteen cords of wood to make our coal go as far as possible, and in that way we managed to have enough to get home with. When we got home we took in all the coal and ice we could carry.

By Senator FRYE:

Q. The second time?—A. The second time.

By Senator EDMUNDS:

Q. Did you deal at any Canadian place on that second trip?—A. Yes, we were in two or three places, and in every instance we went to the custom-house and reported. At Boston I notified the man of whom I had agreed to take coal delivered at Magdalen Island that I would call at Magdalen Island, and if he was there would take all the coal we could get. But when we got there we found a vessel there, and we were notified that we couldn't have any more privileges there than anywhere else.

Q. Is there a British custom-house at Magdalen Island?—A. Yes, sir; they have two or three custom-houses. They have a custom-house at almost every place that has anchorage. So I told the party that I would take the coal of him if he would take it outside the three-mile limits, but he seemed to fear that he might be compromised in some way if he did so, and we went off without it. We managed to get a small fare that time without using all the coal. We fished in the gulf twelve days on the last two voyages.

Q. Did you meet with any further difficulty than the three instances you have spoken of?—A. We went back again on the fourth voyage, and on account of some neglect on the part of the dealers in Boston we didn't have as much coal as we had been carrying. We found after we had been there a week that we were not going to have much time to stay with what we had, and so I had an idea that I could get around them any way and would get some more coal. But the authorities mistrusted something of the kind, and the new cutter met us and ordered us not to transship any cargoes in British waters nor to touch at any Canadian port whatever; if we did our vessel would be seized. There wasn't much of anything there to stop for, and so we came home and haven't been there since.

Q. What did you understand him to mean by "British waters"—inside the three-mile limit, or anywhere in the Gulf of St. Lawrence?—A. He intended to convey the meaning to me that he meant anywhere in the Gulf of St. Lawrence; what he had to back it up with I don't know.

Q. That is what you understood him to mean?—A. That is what I understood him to mean, although he might have meant to mislead me.

Q. What was the name of that cutter?—A. The one they bought in New York. I didn't see any name on her, but I believe she is called the Acadian.

Q. Do you remember the name of the captain?—A. His name was Scott, I think. He didn't come aboard; he hailed us.

Q. How far were you from land at that time?—A. We were in the Strait of Canso, probably half a mile from land.

Q. He met you passing through the strait at the time?—A. Yes, sir.

Q. Under way?—A. Yes, sir; he followed us part way through.

Q. Does your vessel carry sails so that you could sail her in case you

were without engines, practically help.

Q. The cod you catch is three miles off?

Q. How many?

Q. How many? ninety-seven gals.

Q. What does a fishing crew consist of?

Q. What would be ordinarily used?

Q. Are your men?

Q. What share of the catch do you get?

half, but they pay for the fuel, furnish their own provisions, and the firemen, because they furnish the steam.

Q. Suppose the vessel had been embargoed, you understand that?

Q. I don't know, because sometime ago I went out with the log in the Gulf of St. Lawrence off shore.

Q. How long does it take to go from Gloucester to the distance in four days?

Q. What would be the distance in four days?

Q. Do you bring back the fish?

Q. What is the series of shelves, from the water and we run on and will hold from 600 to 800?

Q. How thick would the shelves be?

Q. Then you have the bottom, and use the edges, too.

Q. Have you found any other fish?

Q. It keeps coming in five days before.

Q. What is the name of the islands here?

were without coal?—A. Not enough to make much headway; we were practically helpless without coal.

Q. The cod you were fishing for are taken at the Banks more than three miles off shore, are they not?—A. It is hardly in sight of land.

Q. How many in your crew?—A. Altogether from 35 to 40.

Q. How many tons burden is your vessel?—A. Two hundred and ninety-seven gross.

COST OF VESSELS, AND WAGES.

Q. What does it cost in round numbers to build a vessel ready to sail on a fishing cruise?—A. Mine cost \$36,000.

Q. What would be the cost of a 75, 80, 90, or 100 ton schooner, such as is ordinarily used?—A. All the way from \$8,000 to \$10,000.

Q. Are your men on your vessels paid on shares?—A. Yes, sir.

Q. What share does an ordinary crew get?—A. They usually take half, but they pay certain bills out of their part. In our own case they furnish their own board and bait, and pay the wages of the cook and firemen, because that pertains to their part; and then the vessel furnishes the steam fishing outfit.

THREE-MILE LIMIT.

Q. Suppose the treaty had still been in force, so that you would not have been embarrassed within the three-mile limit, would you, so far as you understand the fishing this year, have fished in-shore to any extent?—A. I don't think I could with any profit. I might have done so, because sometimes it is more convenient to fish in-shore, but if we go still further out we are very apt to find it better. In fact, the best fishing in the Gulf of St. Lawrence this year was from 5 to 15 or 20 miles off shore.

PRESERVING FRESH FISH IN ICE.

Q. How long does it take your steamer to come from Magdalen Islands to Gloucester; take an average voyage?—A. We generally use about four days, but we are obliged to save on coal. We could make the distance in four days with much less coal than in three.

Q. What would be the average time if you had plenty of coal?—A. About three days if we had plenty of coal.

Q. Do you bring in your fish fresh?—A. We did ours. Our vessel was fitted for that purpose.

Q. What is the contrivance you have for that purpose?—A. It is a series of shelves, from the bottom to the deck, to run the fish on, taking them from the water-line. When we get one set full it is taken away, and we run on another, and so on until we fill the space full. The space will hold from 600 to 1,200 barrels.

Q. How thick will they lie on those shelves; how deep?—A. About 18 inches.

Q. Then you have those shelves surrounded by ice?—A. With ice at the bottom, and usually one or two courses of ice between and around the edges, too.

Q. Have you found by experience that that keeps them in good condition?—A. It keeps them first rate. The first we brought here we brought in five days, and they compared favorably with those taken the day before.

Q. What is the ordinary length of a schooner's voyage from Magdalen Islands here?—A. I think somewhere from eight to ten days.

Q. Do they bring fresh mackerel that far?—A. I have only heard of one instance, and the fish in that case arrived in very poor order. The inhabitants there ship their fish overland. By that means they arrive in the market in very good condition. If they had any facilities and were used to it, they could get them around here in less than four days. We cannot do that on account of the restrictions.

TRANSHIPMENT OF FRESH FISH OVERLAND.

By Senator FRYE:

Q. You used to transship?—A. Oh, yes.

By Senator EDMUNDS:

Q. You have been in the habit before of landing your fish up there and sending them around by rail?—A. Yes, sir.

Q. Where did you usually land them?—A. At a place called Point du Chene, the terminus of the Intercolonial road.

Q. How far is it from the fishing grounds into Point du Chene? How far is it from Magdalen Islands?—A. It is much nearer the fishing grounds than Magdalen Islands. The fishing grounds are on the north side of Prince Edward Island.

Q. So it makes a short run?—A. Yes, sir; it is very convenient there.

Q. How much does it cost per hundred pounds to send fresh fish from Point du Chene to Boston?—A. I think about 80 cents a barrel.

Q. In that case the fresh fish are put into barrels?—A. Yes; or boxes.

Q. With ice?—A. With ice.

Q. And those barrels are headed up so as to hold the ice and other contents tightly, I suppose; or are they allowed to leak?—A. They ship them in flour barrels and boxes, and they must leak more or less.

Q. The continuance of the treaty would be an advantage to the mackerel fisheries in the Gulf of St. Lawrence in respect of the fishermen being able to send their fish by rail to Boston, assuming that they had not any right to send their fish in that way now?—A. As far as salt fish go, I don't think it would make any difference.

Q. I am speaking of fresh fish.—A. It would enable us to have an equal chance with them. As it is, they have the advantage of the railroad, which is denied us.

Q. Under duty you stood equal in that respect, for the reason that you could ship and they could ship, and neither of you paid any duty. When they ship salt fish to come that way they have to pay a duty, but they ship their fresh fish now with an advantage, of course.—A. There is no occasion to ship salt fish, because they keep well enough.

Q. It is cheaper to bring them home in the vessel than it would be to send them around by rail?—A. About as cheap, yes.

HALIBUT AND HERRING.

Q. Is there any halibut fishing up there within the three-mile limit that would amount to anything?—A. I don't think there is a great deal. They did some fishing about the isle of Anticosti and about St. Paul's Island, but the best halibut are caught on the Banks in very deep water.

Q. They get a great many on the coast of Labrador nowadays, do they not? Do you know how far off shore?—A. I don't know much about that.

Q. Do you know anything about the herring fishery up there?—A. Very few of our vessels fish for herring; I don't know of any. As a rule, the herring are all caught by the inhabitants on the shores there.

By Senator

Q. When you brought them?

Q. What did you brought mackerel?

Q. What did you about 290 for a salt neighborhood of \$22

Q. What do they met them in Boston?

Q. Is there any country in refrigerated freezing point; but below.

Q. But they do so not?—A. Yes, sir; able.

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Q. So far as you get?—A. I don't

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By Senator F

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By Senator F

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REFRIGERATOR PROCESS.

By Senator FRYE:

Q. When you brought in your cargoes of fresh fish where did you sell them?—A. In Boston.

Q. What did you get for cod?—A. We brought no cod; our vessels brought mackerel.

Q. What did you get for them?—A. We got 7 cents apiece. It takes about 200 for a salt barrel, which brings the price somewhere in the neighborhood of \$20 a barrel.

Q. What do they do with the fresh mackerel in Boston?—A. They sell them in Boston, New York, and the manufacturing towns, and I don't doubt but they ship them as far west as Chicago.

Q. Is there any difficulty about shipping those fresh fish all over the country in refrigerator cars?—A. Oh, no, if they can get them below the freezing point; but in hot weather it is difficult to keep them enough below.

Q. But they do send them all over the country in that way, do they not?—A. Yes, sir; they do in the winter when the weather is favorable.

EFFECT OF DUTY ON CONSUMER.

Q. Do you know anything about the retail prices of these mackerel?—A. We sold our first fare for 7 cents, and they were retailed for 25.

Q. So far as you know is the retail price affected at all by the prices you get?—A. I don't think it is.

Q. Then if there was no duty on fish, would it, in your opinion, make any difference in regard to the price which the consumer pays for his fish?—A. I don't see how it could. The supply is short anyhow this season, and perhaps will be for years.

Q. Take it in an ordinary season, and would the duty make any difference in the price paid by the consumer?—A. I don't see how it could. The difficulty with the market for fresh fish is that we can't get anything for them hardly; we have sold them as low as 25 cents a barrel, and in the best condition too. But this year they have been very scarce, and the price has been correspondingly high, and very few people could use them. We have taken all that could be had.

By Senator EDMUNDS:

Q. Twenty-five cents a barrel would be how much apiece?—A. It would be considerably less than a cent apiece; it would be about seven or eight for a cent.

Q. There are two or three hundred fish in a barrel, I suppose?—A. Yes, sir.

Q. These fish that you got 7 cents apiece for, that were put up on these shelves that you have described, were they great and small just as you took them out of the sea?—A. They ran very nearly all one size.

Q. What grade would you call them by the numbers they have in the Boston market?—A. They were about the size of No. 1 mackerel.

PURSE-SEINES.

By Senator FRYE:

Q. You use the purse-seine, do you not?—A. Yes, sir.

Q. Is it not rather difficult and dangerous to use the purse-seine within three miles of the Canadian shore-line?—A. It is dangerous for

the seine, but parties that are used to it and understand the tides can fish in quite shoal water. In other instances, however, parties who might be called experts lose their seines entirely.

By Senator EDMUNDS:

Q. How deep into the water do those purse-seines go?—A. They take bottom at 130 to 140 feet.

Q. From 20 to 25 fathoms?—A. Yes, sir.

By Senator FRYE:

Q. Do these purse-seines close over a school of mackerel?—A. Oh, no, sir; it is just the same as a web of cloth. You take one end over and take the other end around, and it makes a circle around the edge of the fish; then it sets up edgewise, because one side is floated and the other sinks; the leaded side has a gathering string, a purse line, and that is drawn at both ends until they meet; then after the circle is completed it is pulled until the bottom is closed together and the whole seine is bowl-shaped, with the fish in the bowl.

COMPARATIVE COST OF FISHING BY AMERICANS AND CANADIANS.

Q. What are the reasons why American fishermen cannot compete with Canadians in this fishery business up there?—A. Those people up there do most of their fishing from shore; besides being fishermen they are usually farmers; their fishing is done with hooks morning and evening, while during the middle of the day they attend to their crops. They take these little boats, that only cost from \$10 to \$15 apiece and carry three or four men, and go offshore and fish mornings and evenings. The fish up there don't bite in the middle of the day any better than they do in a brook or pond. They salt the fish that they catch in this way, and the business is carried on in that way all along the coast, except that in the spring they fish with gill-nets. They have fished there for years with nets in much the same way I have described, and those fish, after being salted, are sent to our market.

Q. Then their fish do not cost them so much as yours, do they?—A. Not so much.

Q. How do their vessels compare with ours in cost?—A. I think they get their vessels up about 30 per cent. cheaper than ours; but the other expenses they have are not so different from ours, only they can get their crews cheaper.

Q. How much cheaper do they get their crews?—A. I think they can man their vessel for 60 per cent. of what we can man ours for.

Q. How about their living?—A. They don't live as well as our people. Our fishing people come in contact with those who live in manufacturing towns, and of course our fishing people want to live as well as anybody else, and if they can't do it by fishing they want to do something else.

BOUNTIES.

Q. Do they not pay bounties?—A. I understand they do in some of the lower Provinces from that \$5,500,000 that they got from us; I don't know just how much the bounty is.

SHARES.

By Senator EDMUNDS:

Q. Are not the fishermen employed on their vessels paid on shares?—A. Similar to ours; in fact they are the same men. They engage in the

same business here, they go that way.

Q. The owner takes the whole?—A. Yes, sir.

Q. Is he, or families of the case about

Q. That is the

Q. And those they not?—A.ermen, and do

Q. Are the sent? Most

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By Senator

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Q. What are the?—A. They g their board bills

By Senator

Q. On sailing

suppose?—A. No

same business here as boys and grow up, and if they do not settle here, they go home and get vessels there and carry the business on in that way.

Q. The owner of the vessel, when the cargo is brought in up there, takes the whole cargo and sells it, and the crews get their share?—A. Yes, sir.

Q. Is he, or not, usually a man who has a store, where he sells to the families of the fishermen what they want?—A. Yes, sir; that is mainly the case about the Labrador coast.

Q. That is the case around the Bay of Chaleur?—A. Yes, sir.

Q. And those people are usually in debt to the store-keepers, are they not?—A. Yes, sir; they are a more dependent class than our fishermen, and do not compare with them at all.

Q. Are the lower Province people chiefly of English or Scotch descent? Most of those on the other side are of French descent.—A. Most of those Provinces were settled by the French to some extent, and Cape Breton, I understand, was settled largely by the Scotch who were turned out by the landholders in Scotland. In Prince Edward Island there are a great many of Scotch descent.

FREE FISH.

By Senator FRYE:

Q. According to your experience as a fisherman, what has Canada to give us for a free market for her fish?—A. I will tell you what the county treasurer of Richmond County, Cape Breton Island, told me: that of the taxes he gathered in he took \$15 of United States money to \$1 of Canadian; so I suppose that represents where they get their income from.

Q. Undoubtedly their income comes from American fishermen, but that is not exactly what I ask you. What can Canada give us to-day that the fishermen want in exchange for the free market of the United States? What do you want of Canada for which you are willing to give Canada the right to send her fish to the United States free of duty?—

A. I don't know of anything, unless it would be the right of transporting our fish overland, and they might let us get coal at a lower rate than we could buy it at home and take it there for. But this is only one year out of thirteen; in the other twelve years we could have done much better on this coast; even those who have fished on our own shores have done better.

STEAM MACKEREL FISHING.

Q. And so far as coal is concerned yours is the only vessel that is engaged in mackerel fishing with steam?—A. Yes, sir.

Q. It is an experiment?—A. It is an experiment.

Q. How does it operate?—A. Perhaps it bids fair to operate favorably, but the circumstances this year have been against it.

COMPENSATION OF FISHERMEN.

Q. What are the shares of those fishermen who go on sailing vessels?—A. They give the crew half, only their crews are not subject to their board bills or fireman's account the same as ours.

By Senator EDMUNDS:

Q. On sailing vessels you would not have any fireman's account, I suppose?—A. No, sir.

By Senator FRYE:

Q. The owner furnishes the outfit, and all that sort of thing, and the boarding?—A. Yes, sir.

Q. And the sailors get half?—A. Yes, sir.

Q. Does that include the captain?—A. No; the owner of the vessel furnishes the captain, I believe. In some places the crews are paid partly in cash, but it is not customary.

By Senator EDMUNDS:

Q. About how many men go in sailing vessels from this port?—A. From 15 to 20 for each vessel.

Q. How much do they ordinarily make in a year, taking ten years together for an average?—A. I think during the season they average somewhere about \$30 a month for good seasons; this season they hardly made \$5.

Q. Take an average of ten years.—A. The average would be in the neighborhood of \$30 a month.

By Senator FRYE:

Q. Have you any idea of the profits of the owners?—A. In many places they have been out of pocket in the last ten years.

By Senator EDMUNDS:

Q. For how many months would the average of \$30 run?—A. For seven months.

Q. That would be \$210 a year?—A. Yes, sir.

WINTER OCCUPATIONS OF FISHERMEN.

Q. What occupation do these fishing men pursue when their voyages are over?—A. A very few of them keep at the winter fishing; perhaps about one-third of the whole number only keep at it during the winter, as it is extra hazardous.

Q. Do the others find employment in the winter?—A. As a rule they lie by.

INCREASE OF CANADIAN FISHING FLEET.

By Senator FRYE:

Q. What effect has the treaty of 1870-71 had upon our fisheries and upon the Canadian, within your observation, as to the increase of the fleets, &c.?—A. Nearly all their fishing fleet has been built since that. Several years ago there was a treaty similar to this, under which they prospered, and built up quite a fleet of vessels; then there came a change. In the mean time, between the old treaty and the new, the fishing industry died out and their vessels were sold or made way with so that at the commencement of this last treaty they had a very small fishing interest outside of the States. The people of that country come here and engage in fishing during the summer, and then take the profits home and live during the winter. But free trade gives them a chance to live and do business at home.

Q. Has that increased their fleet immensely?—A. Yes; I judge two thirds, if not nearly all of it, has been built up since that treaty went into effect.

Q. Have you noticed the result upon our fisheries since that treaty went into effect?—A. I know that there is nearly a whole year's catch ahead that they cannot sell; an absolute failure, like this year's failure

gives a chance ahead for three

Q. How about years?—A. I have seen fifteen firms in the figures, but I shall not do business in Boston.

Q. So that it is by reason of refrigerator cars and transportation in the winter they did not make the business?—A. I do not know, but in the South they cannot get a

Q. But on the Yes, sir; and in the fresh-fish six years of the

Q. In your opinion, how would that affect the sale

Q. Then, in your opinion, the fishery business of the fresh, for immediate sale. In ten years from now, the arrangement should be made to conduct the whole business, and don't have to live

Q. So that you would have the extinction of our fishery in the business and turn to in this country, because I could not do there, because I could not do.

Q. What proportion of the fishery business is done in the State of Maine?—A. The State of Maine were formerly native, and live in some part of the State.

Q. They are native.

TR.

By Senator FRYE:
Q. If you had the opportunity to build a rail road do you think

gives a chance to work off the old supply; there has been a surplus ahead for three years.

REFRIGERATOR PROCESS.

Q. How about the increase in the fresh-fish business in the last 15 years?—A. I believe 15 years ago there were in Boston some ten or fifteen firms in the fresh-fish business, and now—I haven't the exact figures, but I should say there are fifty to seventy-five in the same business in Boston.

Q. So that it has increased immensely?—A. Yes.

Q. By reason of the processes of freezing and transporting in refrigerator cars?—A. Yes, sir; and the market has improved, and transportation is much more perfect, and they reach markets that formerly they did not reach.

Q. What effect, in your judgment, has that had upon the salt-fish business?—A. It has greatly reduced the demand in the Northern States, but in the Southern States it must remain nearly the same, because they cannot get at the fresh fish.

Q. But on the whole it has reduced the demand for salt fish?—A. Yes, sir; and in time I think it will still further reduce it.

Q. The fresh-fish business has increased very heavily during the last six years of the treaty?—A. Yes, sir.

Q. In your opinion it will continue to increase, and thus still further affect the salt-fish business?—A. Yes, sir.

FREE FISH.

Q. Then, in your judgment, what would be the operation upon our fishery business of allowing them, under the item in the tariff bill, "fish, fresh, for immediate consumption," to bring in all these fresh fish?—A. In ten years from now you will see quite a change if the past treaty arrangement should go into force again, and they would undoubtedly conduct the whole of the fishing industry of the continent, because they don't have to live under the same conditions we do.

Q. So that you would look, if they had our markets, to see the gradual extinction of our fishery business?—A. I would. In fact, if I continued in the business under new treaty regulations, if I had nothing else to turn to in this country, I would move there and carry my business over there, because I could do the business there so much better.

Q. Do you think that would be the result to our fishermen?—A. I do.

NATIONALITY OF FISHERMEN.

Q. What proportion of the men from New England engaged in the fishery business are American citizens?—A. I don't really have any chance to get at statistics to find out. I think the most of them go from the State of Maine. During the season in the Bay we had three that were formerly natives of the Province of Nova Scotia, but they now live in some part of the States.

Q. They are naturalized citizens of the United States?—A. Yes, sir.

TRANSHIPMENT OF FISH OVERLAND.

By Senator SAULSBURY:

Q. If you had the privilege of landing your fish and shipping them by rail do you think you would be able to compete with the Canadians?

—A. No, sir; that wouldn't make any difference, I guess, as long as the privilege remains; and in fact it is said now that we are no better off by the abrogation of this treaty, so far as fresh fish go. This is an exceptional year, however. Nobody was prepared for this year. Nobody was in any condition to manage fresh fish except myself, because I have this steam vessel, and by means of the quicker transportation given by that steamer have saved time which amounted in the aggregate to some 30 days or more.

Q. What advantage would that be to the men engaged in fishing in schooners? Could, or could they not, if they had that privilege, make more trips than they do make?—A. I don't know. It would require considerable preparation to have the salt, barrels, and other necessities at the railroad terminus, and those things they would be obliged to buy from Canada. They might save sometimes. They use up from 12 to 18 days on the round voyage between the fishing grounds and home, and they would only use about 4 to 6 days the other way; but they would have the transportation to pay as well as the large profits on the supplies they would have to buy there. So that the gain to them would not be so very much. On the other hand, as a rule, they get better prices at home when the fish are handled from the vessel than they would to take them off the ship and send them over the railroads.

Q. You did not know, as I understood, what proportion of the men engaged in our fishery business were native-born Americans?—A. No, sir; my own experience is that most of the men go from the State of Maine.

CLOSE TIME.

By Senator FRYE:

Q. What is your opinion as to the propriety of a close term up to the first of June?—A. Of course their net-fishing and trap-fishing on the Nova Scotia coast affect the supply just the same as ours. We are all at work on the small fish, and we all would be equally benefited by a close time. I don't think there is anything to be gained in the long run by trying to fish for mackerel South.

Q. In your opinion it would be better to have a close time?—A. I think we should be benefited in five or ten years; it would take nearly that time to see any appreciable benefit.

Q. Do you think the mackerel supply has been diminished?—A. I do.

Q. By taking them early in the spring?—A. Yes, and by destroying the hatching-grounds.

Q. They are not good, I take it, in the spring?—A. They seem to market very well when fresh; they are not good to use as salt fish. They are similar to shad and other kinds of fish that spawn at that season.

By Senator SAULSBURY:

Q. Is the principal part of the fishing done, from Cape Hatteras, for instance, to opposite New York, by Northern men?—A. Yes, sir; by these Maine and Massachusetts vessels; there are no others engaged in the mackerel fisheries, that I know of, in the States.

HABITS OF MACKEREL.

By Senator EDMUNDS:

Q. What time do the mackerel that are ready to spawn come in on the British coasts up there?—A. They come in during the month of

June. It comes so soon. Off May. It takes

Q. Do you think they go on north?

A. Oh, yes, we easily make from

Q. So that the same schooner; we know

By Senator

Q. How far do they follow usually? they are running make directly colder, but when north and east soundings until in some instances

By Senator

Q. How far do you ordinarily go?

Q. Then when do you pose?—A. No, south of shore, and other

Q. Taking the what would be the great bulk of mackerel along?—A. I should

Q. So on our side any value at all? Senator EDMUNDS

By Senator

Q. Is that true? Their coasts make there they seem to pursue them with go outside, because our average distance of the three-mile limit is toward the three-mile limit?—a mile an hour.

Q. So that before would be inside the would.

TAT

By Senator

Q. From the time how long would it take them up so that

June. It comes later than our season, because the fish do not get along so soon. Off New Jersey and New York they are with us in April and May. It takes that difference in time to make the passage.

Q. Do you think the same schools of fish that are found at Cape Hatteras go on northward to Block Island and clear up to the British coasts?—

A. Oh, yes, we know they do; we follow them day after day; they easily make from 20 to 50 miles a day.

Q. So that from your experience you think it is perfectly clear that the same schools move along the whole coast to the northeast?—A. Yes, sir; we know they do.

By Senator SAULSBURY:

Q. How far off from shore do these schools of mackerel that you have followed usually go?—A. On the map you can see very plainly. When they are running in spring they seem to leave the Gulf Stream and make directly for shoal soundings. In the winter the shoal water is colder, but when the water gets warmer they make for deeper water north and east until the spawning time comes. They follow the shoal soundings until they get to Maine, Massachusetts, or Nova Scotia, and in some instances I think they go as far as Labrador to spawn.

By Senator EDMUNDS:

Q. How far off shore down at Hatteras and along the Jersey coast do you ordinarily get the most fish?—A. About 25 to 35 miles.

Q. Then when you get up to Block Island they are closer in, I suppose?—A. No, sir; not often. Some seasons there they run 60 miles off shore, and other seasons they run within 5 or 10 miles off shore.

Q. Taking the whole eastern coast of the United States together, what would be the distance off shore that you would expect to get the great bulk of mackerel, if you were going to fish for ten years right along?—A. I should imagine it would be about 40 miles from the coast.

THREE-MILE LIMIT.

Q. So on our shores you would not count the three-mile limit as of any value at all?—A. No, sir; but then there are exceptions.

Senator EDMUNDS. But I am speaking of it in a general way.

By Senator FRYE:

Q. Is that true of British water?—A. No, sir; I don't think it is. Their coasts make differently, somehow. After the mackerel get in there they seem to be driven in-shore by a species of large fish that pursues them within 10 or 15 miles of the coast. At any rate, we don't go outside, because where we find fish there is no occasion to go further. Our average distance would perhaps be 5 miles up there.

Q. Suppose, in fishing up there 4 or 5 miles from the shore, outside of the three-mile shore-line, you run across a school of mackerel and the wind is toward the shore, how long does it take you to get into the three-mile limit?—A. A wind like that will cause us to drift nearly half a mile an hour.

Q. So that before you could gather in your school of mackerel you would be inside the three-mile limit?—A. With a very large school we would.

TAKING MACKEREL WITH PURSE-SEINE.

By Senator EDMUNDS:

Q. From the time you begin to swing around a school of mackerel how long would it ordinarily take, in weather that is not very rough, to get them up so that you could put your ship under sail and stand off?

The WITNESS. To take them aboard?

Senator EDMUNDS. Suppose you were drifting in toward the three-mile limit.

A. It takes us usually about twenty minutes to get the fish ready for removal to the vessel, and then we can handle about 100 barrels an hour, with a very active crew. I should imagine they would consume nearly two hours, on the average, however, with a hundred barrels.

Q. Can you not get under way until they are all in?—A. No, sir; we have to lie still; we couldn't move 50 feet without tearing the net. A hundred barrels of fish is a very heavy mass, and we are obliged to use as light netting as possible on account of convenience in handling.

Q. How many fish were there in the largest number you ever took in one haul, if you call it a haul, with a purse-seine?—A. We have saved 600 barrels. In the Gulf of St. Lawrence the past year from one school we got 150 barrels. The schools run smaller there because the water is shoaler.

TESTIMONY OF CAPT. EDWIN T. LEWIS.

GLOUCESTER, MASS, *October 4, 1886.*

Capt. EDWIN T. LEWIS sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Twenty-nine.

Q. Residence?—A. Booth Bay, Me.

Q. What is your occupation?—A. Fisherman.

Q. Are you master of a vessel?—A. Yes, sir.

Q. How long have you been engaged in fishing, whether as master or otherwise?—A. I think about fifteen years.

Q. Where have you chiefly conducted the business?—A. Here.

Q. I mean when at sea. Where did you catch your fish?—A. The most of them on this coast.

THREE-MILE LIMIT.

Q. Have you ever fished in what we will call British water, that is to say, in the Gulf of St. Lawrence, on the Grand Banks, &c.?—A. I have fished in the Gulf of St. Lawrence.

Q. Did you fish for mackerel, or cod?—A. For mackerel.

Q. How many seasons have you fished in the Gulf of St. Lawrence?

A. Since I have been master of a vessel I have been there three seasons.

Q. How many while not master?—A. Two, I think.

Q. Making five altogether?—A. Yes, sir.

Q. During those five years where did you get the bulk of your mackerel?

The WITNESS. Inside or outside the three-mile limits?

Senator EDMUNDS. Yes.

MAP.

Q. Have you seen, before, this map hanging on the wall of this room?—A. Yes, sir.

Q. Can you point out to us about the places where you fished?—Yes, sir. [The witness did so.]

Q. From your ex-
and that this blue
Yes, sir.

Q. How far out d-
years?—A. From f-

Q. Have you bee-

Q. Have you had

but once, going and

Q. Did you go th-

Q. You always d-

A. Yes, sir.

Q. How many me-

Q. Did they go on

Q. All the macke-

Q. The share is t-

The shares are the

gets a share, but the

Q. About how m-

have only been mas-

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Q. What do they

them do anything; t-

Q. Have you been

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Q. You fish, of cou-

Q. Do any of our f-

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Q. Do you go fitted

we go fitted for both

Q. Why?—A. Bec-

Q. You get more by

Q. Why do you go

are times when you ca-

we lay by, hooking.

Q. What depth of v-

them with a hook?—

with a purse seine.

Q. But they do no

sweep around the ves-

Q. In that case why

—A. We do.

Q. I am now speak-

—A. They show at the

and when they don't d-

Q. And having got

we can.

Q. Taking all your
ation, do you think t-

Q. From your experience do you understand this map to be correct, and that this blue represents the chief mackerel-fishing grounds?—A.

Yes, sir.

Q. How far out did you take the great bulk of your fish in the five years?—A. From five to six and eight miles, probably.

Q. Have you been up there this year?—A. I have.

Q. Have you had any difficulty?—A. Not any. We never harbored but once, going and coming, except in stress.

Q. Did you go through the Strait of Canso?—A. We did.

Q. You always do, I suppose, when you go up there, do you not?—

A. Yes, sir.

COMPENSATION OF FISHERMEN.

Q. How many men did you employ this year?—A. I had 17.

Q. Did they go on shares?—A. Yes, sir.

Q. All the mackerel men do, I suppose?—A. Yes, sir.

Q. The share is the same as Captain Joyce stated, I suppose?—A. The shares are the same, but we go on a little different lay. Our crew gets a share, but they have a few expenses to pay extra.

Q. About how much do they make on a ten years' average?—A. I have only been master of a vessel about eight years. Probably they have made an average of \$40 a month and better.

Q. For how many months?—A. For seven or eight months.

Q. What do they do the other four or five months?—A. Very few of them do anything; they lie by.

HOOK AND LINE *vs.* SEINE.

Q. Have you been a mackerel man all the time?—A. All the time. I was winter fishing one winter, haddocking.

Q. You fish, of course, with a purse seine?—A. Yes, sir,

Q. Do any of our fishing vessels, to your knowledge, fish for mackerel with a hook and line?—A. They do very little.

Q. Do you go fitted out to try to make a catch that way?—A. Yes, sir; we go fitted for both ways, but we only catch very few on the hook.

Q. Why?—A. Because we can't.

Q. You get more by seining?—A. Yes, sir.

Q. Why do you go fitted out with hooks at all yourself?—A. There are times when you can't see them; schools don't always show, and then we lay by, hooking.

Q. What depth of water do you generally get them in when you catch them with a hook?—A. We fish on about the same ground as we do with a purse seine.

Q. But they do not show on the surface?—A. No; sometimes we sweep around the vessel and get some in that way.

Q. In that case why do you not run out your seine and take them in?—A. We do.

Q. I am now speaking of hook fishing. When is it you risk a hook?

—A. They show at the surface when we catch them with the purse seine, and when they don't do that we touch them up with bait.

Q. And having got them there you purse them if you can?—A. If we can.

THREE-MILE LIMIT.

Q. Taking all your mackerelmen together, according to your observation, do you think that the right to fish within the three-mile shore

line is of any substantial value to the mackerel-fishing interest of the United States?—A. I do not.

Q. You would not be willing, then, to have the United States give the Canadians any valuable privilege in return for the right to fish within their three-mile shore line?—A. No, sir.

SALT AND FRESH FISH.

Q. Do you carry ice?—A. We do now on this shore; we never carried any that far.

Q. All your sailing fishermen use salt up there, I suppose?—A. Yes, sir.

Q. Do you assort your fish before you barrel them, or do you put them all together and assort them when you get home?—A. We put them in barrels and salt them.

Q. Without arranging them by numbers?—A. Yes, sir.

Q. How long does it take you to run from Magdalen Islands here?—A. It will take from eight to ten days.

Q. How far is it?—A. About 700 miles, I should say.

Q. You cannot make more than 100 miles in twenty-four hours, on an average?—A. Not on an average; no.

NATIONALITY OF FISHERMEN.

Q. Of what nationality are the crews you employ?—A. Mine are Americans, mostly from the State of Maine.

THREE-MILE LIMIT.

Q. Do you find Canadian fishing vessels in the Gulf fishing on the same grounds where you fish?—A. Yes, sir; they fish on the same grounds we do. They fish inshore sometimes, and we do not.

Q. But, generally, were the Canadian vessels chiefly employed in fishing for mackerel inside, or outside the three miles?—A. This year they fished with us all the season. I didn't see but very few within the three-mile limit.

Q. They take their fish into what port?—A. To whatever port they sail from.

SALT AND FRESH FISH.

Q. They put up their fish in salt just the same as our fishermen do?—A. Yes, sir.

Senator EDMUNDS. I did not know but they took their fish fresh and carried them to a railway somewhere.

The WITNESS. Not that I know of.

Q. They get their salt and supplies from their own port?—A. I suppose they do, except I believe they get their purse-seines from the United States.

RELATIVE COST OF UNITED STATES AND CANADIAN VESSELS.

Q. Are the provincial vessels about the same size as ours?—A. About the same.

Q. And schooner-rigged?—A. Schooner-rigged.

Q. How do they compare in cost, so far as you know, with our vessels?—A. They only cost about two-thirds as much.

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COMPENSATION OF FISHERMEN.

Q. Do their men fish on shares?—A. The same as we do, I think; I am not sure.

Q. They have about the same lay, you suppose?—A. About the same.

MACKEREL FISHING.

By Senator FRYE:

Q. What distance from shore have the bulk of your mackerel been taken up there this year?—A. About four to six miles.

Q. Taking it through the whole length of the coast, where have the bulk of the mackerel been taken in our own waters?—A. From 35 to 40 miles from the shore.

Q. In all your mackerel fishing together, where have you taken the bulk of your fish, in American, or Canadian waters?—A. In American waters.

Q. What proportion in American waters?—A. Nine-tenths.

By Senator EDMUNDS:

Q. Is that true of the great mass of the American mackerel fleet?—A. I don't know that; I have no experience.

Senator EDMUNDS. The statistics will show.

NATIONALITY OF FISHERMEN.

By Senator SAULSBURY:

Q. Have you any means of knowing about what proportion of the fishermen are native-born Americans?—A. No, I have not.

Q. Do the vessels that go out from here carry part of their crews from the Provinces, or do they take them all from here, as a general rule?—

A. Now they take them all from here; they are not allowed to take them down there.

Q. They are not allowed to employ them there?—A. No, sir.

FREE FISH.

By Senator FRYE:

Q. What is there that Canada can give us that will be an equivalent for the privilege to them of sending their fish into our market free?—A. There is nothing.

BAIT.

Q. Have you need to go in there to buy bait?—A. I don't use any bait.

Q. Do our cod-fishermen go in there to buy bait?—A. They can get along without it very well.

Q. So that, so far as you know, there is nothing Canada can give which would be regarded by you as an equivalent for a free market to them?—A. No, sir.

TESTIMONY OF CAPT. RICHARD WARREN.

GLOUCESTER, MASS., October 4, 1886.

Capt. RICHARD WARREN sworn and examined.

By Senator EDMUNDS:

Question. Where do you reside?—Answer. In Gloucester.

Q. What is your occupation?—A. Fishing.

Q. What kind of fishing?—A. Mackerel, wholly.

Q. How long have you been in the business?—A. Thirty-five years.

Q. How long as master?—A. Twenty-six.

Q. Whereabouts have you fished mainly?—A. I have done most of my fishing for the last fifteen years on this coast; previous to that in the Gulf of St. Lawrence.

Q. Previous to 1871 you fished for how many years in the Gulf of St. Lawrence?—A. Nearly twenty years.

THREE-MILE LIMIT.

Q. Taking the St. Lawrence fisheries, where did you get the bulk of your mackerel as respects the three-mile shore-line?—A. I should judge that for the twenty years I was inside the Bay of St. Lawrence I hardly saw the shore, being off the northwest point of Prince Edward's Island.

Q. You were a good many miles from that point?—A. Yes, sir; twenty to forty.

HABITS OF MACKEREL.

Q. Do the mackerel there have the habit of staying about the same particular place each year?—A. At that particular time we were hooking, not seining, and what used to be a very choice part of the St. Lawrence for us to fish. There are many men in the room now who used to fish there—old, experienced men—and we fished there years and years.

SUPPLIES.

Q. In that 20 years or so how many times in a season did you find it necessary to go into any British port for supplies other than wood and water, and for shelter and to repair damages?—A. I don't recollect during my first ten years down there that I ever went in for supplies; I might possibly have done so; but I did not go in for anything more than wood and water.

HOOK AND LINE vs. SEINE.

Q. When did the hook-and-line fishing from vessels chiefly stop, and you take up the purse or other kind of seine fishing?—A. I presume about 1875 there was quite a large majority went to seine fishing; I think it was in 1875.

Q. About how long are these purse seines?—A. Two hundred fathoms and upwards.

Q. How deep?—A. About 20 fathoms deep.

Q. So they would touch bottom in 20-fathom water?—A. Yes, sir.

By Senator FRYE:

Q. What do they cost?—A. In the neighborhood of a thousand dollars, near that.

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By Senator EDMUNDS:

Q. I suppose those seines are made in the United States by machinery?—A. Yes, sir; they are made principally in Boston; some are made in Gloucester at present.

THREE-MILE LIMIT.

Q. Did you fish in the St. Lawrence waters during the existence of the treaty of 1871?—A. Yes, sir.

Q. And during that time, if I understand you, you fished outside of the three-miles?—A. There wasn't very much fishing, either. There were very few fish caught while I was there, and so I didn't remain long; I came out after I was there a short time.

Q. Have you fished there since?—A. I fished there six weeks; nearly two months.

Q. Have you had any difficulty with the authorities in any way in regard to your vessel?—A. No, sir; I haven't visited their harbors; I only visited one harbor during all the time I was down there.

Q. Did you see many Canadian fishermen down there?—A. I saw a good many.

Q. Where were they fishing?—A. In the same waters we were during the time I was there; I saw more or less of them every day.

Q. I should infer, from what you say, that, like our vessels, they catch the bulk of their mackerel by the present methods, with seines, and outside the three miles?—A. Wholly, so far as I know; very few mackerel are taken by Canadian vessels inside, I think.

Q. From your knowledge of that fishery do you consider the right for you and your fellow-fishermen to catch mackerel within three miles of the shore of any substantial value?—A. O, no, sir; it is a detriment to us to go inshore. That coast abounds in rocks, and the waters are shallow, especially along the east coast of New Brunswick and Prince Edward Island; and it is a detriment to go into those shallow waters, for they are about sure to lose their seines or tear them badly. It is an advantage to us to keep away from shore.

Q. The water is deep around Magdalen Islands, is it not?—A. No, sir; it is shallow, mostly.

By Senator FRYE:

Q. It is rocky, is it not?—A. Very rocky.

AVERAGE VOYAGE.

By Senator EDMUNDS:

Q. How long does it take you to make a voyage?—A. Owing to circumstances.

Q. But take an average from four or five seasons together, what would you calculate to be the necessary time from the Magdalen Islands?

The WITNESS. Making the passage?

Senator EDMUNDS. Yes.

A. To go and return it would take about two weeks.

Q. That would be a round trip?—A. A round trip; that could be done easily in fourteen days.

Q. In an average year of, say, 20 years back, how many voyages would the Gloucester schooners be able to make up there and back?—A. It is pretty hard to get at the average, because they differ so much.

Often they make three voyages from here to the Gulf of St. Lawrence in a sailing vessel and back again.

Q. And sometimes, I suppose, they do not make more than one?—A. Yes, sir. I have made four by landing.

FREE FISH.

Q. I will ask you the same question that Mr. Frye has asked the other witnesses: Is there anything in the fishery way that you would consider to be an equivalent that Canada could give us for giving her the right to market both salt and fresh fish free into our ports?—A. No.

By Senator FRYE:

Q. What is the effect of a free market upon our fisheries?—A. As far as I understand it, we certainly would be obliged to haul out of the business in a very short time; that would be the case, I think, with every one that follows it here in this part of the country.

Q. In your opinion, then, in ten or fifteen years' time it would destroy the fishery trade of our country?—A. Wholly.

Q. Would you go over there?—A. We should be obliged to if we wanted to continue in the fishing business.

RELATIVE COST OF UNITED STATES AND CANADIAN VESSELS.

Q. Why can we not compete with them?—A. It is impossible for us to do it on account of the difference between our systems of producing vessels and running them.

Q. Such as what?—A. They have a very different method of running them, and they fit them out differently, and the crews don't expect the same living.

Q. How much more should you say it would cost to build our vessels than theirs?—A. A new vessel of a hundred tons can be built there ready for sea at a cost of \$6,300, and one of ours of the same tonnage would surely cost \$10,000.

OUTFITS AND COST OF LIVING.

Q. How about outfits?—A. They live differently. We get the best there is in the market, in the shape of food of all kinds, to put aboard our vessels, but they go under a different system; they can eat a barrel of herring with a relish, at which our fishermen would turn up their noses. Our outfit costs nearly one-half more. They get flour very much cheaper, and they live so differently in every way. We use a barrel of beef every twenty days, and they would take two months in consuming it; they use it only once a day, when we have it on the table all the time. They don't have any luxuries at all.

Q. On the whole, how much more expensive should you say would be the whole cost of outfit and everything else for an American vessel than for a Canadian?—A. Fully one-third more, according to my judgment.

Q. Do they have any advantage of you in getting their mackerel to market more quickly?—A. That must be an advantage. They have not commenced, but, so far as my knowledge goes, another season they will supply our market nearly altogether.

INCREASE OF FRESH-FISH BUSINESS.

Q. What do you know, if anything, about the increase of the fresh-fish market in this country in the last ten years?—A. I know it has in-

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creased more than 50 per cent. in the last ten years; I have been connected with it for the last fifteen years.

Q. What effect has that had upon the salt-fish market?—A. It has reduced it, of course.

Q. Is there a constant and growing increase in the use of fresh fish in this country?—A. Yes; there is.

Q. Caused, I suppose, by the increased convenience in the transportation of fresh fish?—A. Yes, sir.

Q. You can distribute fresh fish now all over the country by rail?—A. Yes, sir; whereas, a few years ago there was a very small quantity of fish shipped in that way.

Q. In your opinion will that trade continue to increase?—A. I don't see why it should not.

Q. Do you think, then, that the Canadians, under the item in the tariff act, "Fish, fresh, for immediate consumption," should be permitted to send in all these frozen fish?—A. I don't suppose they ought, but it appears that they have been.

CURING OF FRESH FISH AFTER ENTRY.

Q. Suppose a cargo of frozen halibut or any other kind of fish was brought here and landed as "Fish, fresh, for immediate consumption," the wholesaler who buys them transships them to Boston or New York, does he not?—A. Yes, sir.

Q. Is there any way for the custom-house officer here to follow them in order to see that they are not cured afterwards?—A. There is a way to follow them, but certainly I have never known anything of that kind to transpire.

Q. They can, and undoubtedly do, cure a great many of these fish that are so entered?—A. I have not the slightest doubt of it.

Q. If the market is very strong they will not lose them?—A. No, sir; they cure them. The fish can be brought in fresh to-day and salted to-morrow, and the public know nothing about it.

EFFECT OF THE TREATY OF 1870-'71.

Q. What has been the effect of the treaty of 1870-'71 upon the Canadian fisheries?—A. I haven't had much experience down there in the last few years; I have only been there one or two years.

Q. What effect has it had upon our business here?—A. You can see that every day without asking the question.

Q. What is the effect?—A. The amount of it is that we get in surplus fish here in town that we can't dispose of.

Q. Is it driving your fishermen out of the business?—A. Certainly; lots of them.

Q. How large is your fleet here now?—A. I don't know how large it is.

DUTY.

Q. What do you want of the United States Government so far as fisheries are concerned?—A. I should like to add to the duty.

Q. What do you say the duty ought to be?—A. I am not prepared to say what I think it ought to be, but I think it ought to be enough to keep the Canadian fish out and give the American fishermen a chance to live.

Q. Can the American people supply the American market?—A. I presume they can; they usually did before Canada got a fleet of fishermen of her own.

Q. In your opinion should there be a duty on frozen fish?—A. Yes, sir; there should be.

Q. Do you know anything about the retail market?—A. I know something about it.

EFFECT OF DUTY UPON THE CONSUMER.

Q. The fishermen sell to the wholesaler?—A. Usually, yes.

Q. And the wholesaler to the jobber. Now, what is the difference between the price the fisherman receives for his fish and what the consumer pays for his?—A. That is a pretty hard question for me to answer, because it varies so much; of course there is some considerable difference; at times there is a big difference, and then at other times there may be less.

Q. Does the fisherman average more than two-thirds of the price paid by the consumer?—A. Usually not, I think. That is putting it a little small perhaps; I should think they did a little better than that.

Q. From your experience does the duty on fish affect the price of fish to the consumer; I do not mean to the wholesaler?—A. Yes; it does.

Q. How?—A. I don't know as it does to the consumer, either.

Q. If there is any effect, is it not between the wholesaler and the fisherman?—A. That is just what it is usually; to the consumer I don't know as it makes any difference.

CLOSE TIME.

Q. What do you say about close time for mackerel?—A. I think it would be a good plan to close it up to the 1st of June, or better still, I think, to the 1st of July.

By Senator EDMUNDS:

Q. State your grounds for thinking so.—A. On account of the scarcity of fish, which results from catching so many fish early in the season and catching them before they have a chance to spawn.

By Senator FRYE:

Q. When they are carrying spawn do you think they are as good as they ought to be?—A. No, sir; of course they are not so good. Of course fresh fish readily find a market, but come to salt them and they are not of as much value.

By Senator EDMUNDS:

Q. Is mackerel roe ever eaten as shad and salmon roe?—A. It is eaten quite extensively, by New York folks especially.

HABITS OF MACKEREL.

Q. Do you think the same schools of mackerel go North from Hatteras and New Jersey all along this coast?—A. Oh, yes; there is no doubt about that, because we have followed them from year to year right along the coast.

FRESH AND SALT FISH.

By Senator SAULSBURY:

Q. What proportion of the fresh fish that are thrown upon our market are caught in American waters?—A. Well, I could not say, but I

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largest part of them are caught in our waters, that is, in the mackerel line.

Q. What proportion of the mackerel that are caught between Hatteras and Salem or Boston are sold as fresh fish, and what proportion are sold as salt fish, so far as you can form an estimate?—A. I really couldn't tell; that is something I never thought of. The majority we have caught are sold salted, because it is only for two months in the first of the season that they run fresh. Down this way most every one gets salt fish at this season, but in the early season most every one gets fresh fish. So really I could not tell what proportion would be sold fresh.

SPRING FISHING.

Q. Is your fleet here at Gloucester and along our shores here engaged largely in the spring fishing from Hatteras northward?—A. Usually there are about 100 sails of vessels engaged in that business from this port alone, I guess.

RATIO OF FISH CAUGHT IN PROVINCIAL WATERS TO THOSE CAUGHT IN UNITED STATES WATERS.

Q. Can you form an estimate of what proportion of salt fish for sale in our markets are caught in the British waters around the Provinces?—A. I presume three-fifths of them were caught there this year.

Senator FRYE (to Senator Saulsbury.) By "British waters" you do not mean within the three-mile shore line?

Senator SAULSBURY. No.

Q. Are the three-fifths you speak of brought here and thrown upon the market, or are they brought here in bond and transhipped to some other point largely?—A. Those mackerel caught in that vicinity are fetched here and salted and shipped all over the country.

Q. Are there not a great many of their fish that come here salted, having come in bond, and are transhipped without paying duty?—A. I am not aware of that fact; it may be so.

NATIONALITY OF THE FISHERMEN.

Q. You have been in the fishing business a good while and have a general knowledge of it; what proportion of the men engaged in fishing from our ports are native-born Americans?—A. I should judge somewhere about two-thirds.

Q. Have any of our vessels been in the habit of going out to the fishing grounds and reshipping men?—A. They have been in the habit some years ago of going down to the Provinces and shipping one or two men or four or five for each vessel.

Senator SAULSBURY. I understood from one of the captains that that is not admissible now.

The WITNESS. No, sir; it is not.

By Senator FRYE:

Q. Do they not allow you now to ship other men?—A. No, sir; if a man there wants to go a fishing on one of our vessels he has got to hunt up money enough to bring him to this end before he can ship.

TESTIMONY OF CAPT. JOHN McQUIN.

GLOUCESTER, MASS., *October 4, 1886.*

Capt. JOHN McQUIN sworn and examined.

By Senator EDMUNDS :

Question. What is your age?—Answer. Sixty-two.

Q. Where do you reside?—A. East Gloucester.

Q. What is your occupation?—A. I have been ashore mostly for the last four years; for the last fifteen or sixteen years I was running to South America, and before that I was a fisherman.

Q. What business have you been engaged in ashore for the last four years?—A. Trading and fish business.

Q. Do you know of any importations of foreign fish from British ports?—A. Three years ago we brought one trip from the British Provinces.

Q. You deal almost entirely, I suppose, in American fish?—A. Yes, sir.

Q. Do you deal in all kinds?—A. I am out of the business now.

Q. You did deal in cod?—A. Yes, sir.

Q. And mackerel?—A. Yes, sir.

Q. Halibut?—A. No, sir; not halibut.

Q. Herring?—A. Some herring; very few.

HERRING.

Q. Is there much herring business done at this port?—A. Considerable in frozen herring in the winter.

Q. Where do they come from?—A. Some of them come from down to Grand Manan, and some from Newfoundland.

Q. What use is made of them?—A. They are used for bait partly, mostly so here. Some of them are peddled out for consumption in New York and Boston. A good many are used in Boston for bait.

Q. Those that are used for bait are used in cod-fishing?—A. Yes, cod and halibut.

Q. How extensive is that winter frozen-herring business? Or are they frozen by artificial means?—A. No, sir; they are frozen by frost. I should say there are from 35 to 40 vessels go every year; I don't know but more.

Q. Where are these herring taken at Grand Manan—inside the three-mile limit?—A. Yes, sir; they buy them.

Q. These vessels that go for them go as trading vessels instead of fishing vessels, do they?—A. Yes, sir; they go down as trading vessels and buy the herring from the natives.

Q. During the last winter have some of your vessels gone in that way?—A. Yes, sir.

Q. Did they experience any difficulty with the authorities there about coming as trading vessels?—A. I think not, this last winter; I wasn't there myself, but I didn't hear of any.

THREE-MILE LIMIT.

Q. I only inquire for your general knowledge and observation. When you were engaged in the fishing business where did you fish?—A. When I was cod-fishing I fished on the Georges and down on what we

call Brown's Bank; in mackerel fishing I always fished in North Bay, the St. Lawrence.

Q. Which side of Prince Edward's Island?—A. I always fished north of the island, not at the straits at all.

Q. How many years did you fish down there?—A. I think I was down there 13 years.

Q. What was the last year as nearly as you can remember?—A. 1863.

Q. You fished substantially most of the time during the period of the existence of the reciprocity treaty of 1854?—A. Yes, sir.

Q. Where did you catch your fish—I mean the bulk of them—in respect of the three-mile line?—A. We caught a very small portion of them inside the three miles.

By Senator FRYE:

Q. You caught with a hock and line then?—A. Yes, sir; I never was seining; we fished mostly around the Magdalens, around Bank Bradley and Bank Orphan.

Q. Where did the other American fishermen, during the time that you were fishing there, catch the great bulk of their mackerel, as respects the in-shore line?—A. I should think they caught nine-tenths of them outside, off shore.

Q. Although you were then all hook fishermen?—A. Yes, sir. We used to be mostly altogether scattered in different places, in bunches.

Q. Of what substantial value, from your knowledge, experience, and observation, do you regard the right of American fishermen to fish within three miles of the provincial shores?—A. The way they fish now for mackerel I don't think it would be worth very much, because they are apt to lose more than they gain by tearing up their gearing. In fact, they can fish but very little with the seines they have. I never saw them seine until this year, and I shouldn't suppose they could get but very few fish inside the three miles.

Q. From your experience, as you have described it, it was not of any very essential value to you during the time when you had the right to fish within the three miles?—A. No, sir; it was not.

BAIT.

Q. How much better is fresh bait for codfish, say herrings that come here frozen, than salted bait, with which to catch cod on the Banks?—

A. For hand-line fishing around the Georges, of course salt bait ain't so account, but on the Banks, to go trawling, salt bait, clams, &c. hand-lines, are fully as good.

Q. As herring?—A. Yes, sir.

Q. Where would you get your clams?—A. Down East, at Portland; that is where they do get them all.

Q. You do not depend on British waters for clams?—A. No, sir. They come up to Portland every spring and get them by the thousand barrels and carry them down there for the Bankers.

HERRING.

Q. During the dozen years of the treaty of 1870-71 that expired last year, how many herring for food, instead of for bait, were taken by American fishermen in British waters?

The WITNESS. Do you mean caught?

Senator EDMUNDS. Caught when they went herring fishing; I do not mean when they went as traders and bought the product.—A. I shouldn't suppose there was more than one-tenth caught by American vessels.

By Senator FRYE:

Q. Our vessels do not go herring fishing?—A. Very seldom. They buy them and pay the money for them.

By Senator EDMUNDS:

Q. So that the American fishermen have so far no interest in the herring fisheries within the three miles?—A. No, sir; not for catching.

FIRST CASE OF THE DRUID.

By Senator FRYE:

Q. You have been down there this summer?—A. Yes, sir; I was down there between two and three weeks in North Bay.

Q. Did you go down with a vessel?—A. Yes, sir.

Q. What did you go down for?—A. I went down to carry supplies to vessels down there, and to see if I could get a load of mackerel to bring home.

Q. What experience did you have down there, if any?—A. My experience was I didn't get a load of mackerel to bring home; they wouldn't let me get them; they wouldn't give me any privileges at all, only outside the three miles, the same as the fishermen had.

Q. You did not go down as a fisherman?—A. No, sir; I was under register.

Q. What did you try to do under register?—A. I tried to get a load of mackerel to bring home.

Q. Where did you try?—A. I tried down there, but the first harbor I went in they stopped me and kept me three days.

Q. On what pretense?—A. Because they said I had no business there, that is what the captain of the cutter said. I cleared for the Magdalen Islands; I hadn't reached there.

Q. But you had a register?—A. Yes, sir.

Q. Were you not permitted to buy anything?—A. Yes, sir; I could buy anything, but I wasn't permitted to bring anything aboard the vessel; they wouldn't allow me to handle a barrel aboard the vessel. They wouldn't allow me to handle the hatches, had an armed guard aboard. I wasn't anchored two hours before they had an armed guard aboard.

Q. Did you show them your papers?—A. Yes, sir.

Q. What did they have to say about them?—A. They said I had no business there, because I was in Malpeque, and I was going to the Magdalen Islands.

By Senator EDMUNDS:

Q. What date was that?—A. That was August 18, 1886, I think, have the date at home.

Q. Do you know the name of the cutter that held you?—A. The Hallette.

Q. Do you know the name of the captain?—A. I don't know his name. [A bystander said that the name of the captain was Norw.]

Q. Had you on your vessel at that time any purse-seine?—A. No.

Q. Any stock for fishing; hand-lines, or anything of the kind?—A. No, sir; I had salt, barrels, and provisions.

Q. Any bait for cod-fishing?—A. No, sir.

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The WITNES
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Q. You had no fishing outfit of any kind?—A. No, sir; not for catching fish.

Q. You had a register?—A. Yes, sir.

Q. And cleared from here?—A. For the Magdalen Islands, Harbor of the Bar.

Q. While you were in there and these people were having you under guard, were any of our American fishing vessels coming in towards you to pass over their cargo?—A. The first night I got into the harbor there was quite a large fleet in there, but when the captain of the cutter came aboard and there was quite a number of skippers aboard he drove them away.

Q. Do you mean to say that he would not allow them to stay aboard your vessel?—A. Yes, sir; he drove them away.

Q. How did he drive them away?—A. He told them to get out of the cabin, to get out of the vessel, that they couldn't stay there; that is about the polite way he told them.

Q. Have you represented these circumstances to the State Department at Washington?—A. No, sir.

By Senator FRYE:

Q. What was the name of your vessel?—A. The Druid.

By Senator EDMUNDS:

Q. What was she; a schooner?—A. Yes, sir.

Q. A vessel like a fishing vessel?—A. Yes, sir; she goes to the Banks every year.

Q. Was she your vessel?—A. Yes, sir.

Q. You were her owner?—A. Yes, sir.

Q. How long were you in that place under surveillance?—A. I lay there two nights and a day. He wouldn't let me go until he telegraphed to Ottawa; he had to go back on the island to telegraph to ascertain whether he should seize me for being down there with supplies for American fishermen, and, as far as I could find out, the answer came back to let me go, but to see that I did not receive any thing inside of the three-mile limit. So the next morning when he went out I had to go; he wouldn't allow me to stay in the harbor any time; I had to go when the rest of the vessels went.

Q. He would not allow you to remain?—A. No, sir.

Q. And you were a merchant ship?—A. He wouldn't allow me to remain, and I had to go.

Q. What did you do after you got out?—A. I used to go out and sail around amongst the fishermen, and when they wanted anything I would let them have it outside the three-mile limit, if I had it.

Q. Did you finally take on a cargo?—A. We got 200 barrels from one man to bring home; that is all we got. If I hadn't been interfered with the first night I got in I think I might have got the biggest part of the load; but of course when the fleet went out they scattered, and most everybody was under the impression, from seeing the armed guard aboard, that I was seized, and so the most of them came off home with their fish, not knowing what had become of me.

Q. Had you gone into that bay with any previous understanding with any of these vessels?—A. No, sir.

Q. Had they, to your knowledge, been notified that you would be there on that occasion or about that time?

The WITNESS. Who? The cutters?

Senator EDMUNDS. The fishermen.

A. Some of them might have heard of it. There was one vessel from here that I told I was going down. The most important object I had in going down that cruise was to supply the vessel I had there myself, that I thought I could relieve and save her from coming back home; that was partly my object in going.

Q. Did you find her?—A. Yes, but she didn't have any fish; she had had hard luck.

NATIONALITY OF FISHERMEN.

By Senator FRYE:

Q. Are you the owner of fishing vessels?—A. Of that one and part owner of another vessel that is in the bay seining.

Q. Do you fit them out for fishing every season?—A. I send them, I don't fit them.

Q. Do you know about the markets for fish?—A. Well, no, sir; I don't know much about them.

Q. What is the nationality of the crews of your vessels?—A. I should think about three-fourths of them are Americans.

Q. What proportion of them are naturalized citizens of the United States?—A. I don't know.

Q. That is, you think three-fourths are native Americans?—A. Natives and naturalized.

CANADIAN PRIVILEGES.

Q. From your experience down there is there any equivalent in the way of privilege that Canada can give us in return for a free market for her fish?—A. No, sir.

Q. What is there that our fishermen need down there that they have not?—A. Nothing except the privilege of buying provisions.

Q. Provisions alone?—A. Yes, sir.

BAIT.

Q. They can get along without buying bait, can they?—A. Yes, sir.

Q. So that you do not regard it as a necessity to go within the three-mile limit to buy bait?—A. No, sir; I do not. I think where it benefits one it damages two by buying it.

INCREASE OF FRESH FISH.

Q. Has the fresh-fish market increased immensely the last ten years?—A. Yes, I think it has.

Q. By reason of easy transportation in refrigerator cars, &c.?—A. Yes, sir.

Q. Has that decreased the salt-fish market?—A. I think it has.

Q. Is that fresh-fish market increasing all the time?—A. Yes, I think it is.

Q. Fresh fish, whether frozen or not, are admitted free of duty now under the construction of the old law?—A. Yes, sir.

Q. So that Canada has a free market to that extent?—A. Yes, sir.

Q. What proportion of our fresh fish are brought in here by Canada do you think?—A. I don't know as I can tell. They are increasing so fast that I don't know that I could come anywhere near it.

WHOLESALE AND RETAIL PRICES.

Q. Do you think that the duty imposed upon fish has any effect upon the market to the consumer?—A. No, sir; I don't think it has.

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The WITNESS.

Senator FRYE.

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mark.

Q. What, in your judgment, is the proportion of the retail price to the price that the fishermen get?—A. I should think two-fifths to three-fifths.

Q. And the fisherman's price is paid by the wholesaler?—A. Yes, sir.

COMPENSATION OF FISHERMEN.

Q. Do most of the fishermen from Gloucester sail on shares now?—A. I think they do.

Q. Their share being one-half?—A. Yes, sir.

Q. The owners furnishing the outfit and the vessel?—A. Yes, sir.

INSURANCE.

Q. What is the insurance on these fishing vessels?—A. It depends a good deal on the losses of vessels. We insure in mutual companies. Mr. Steel, the president of our company, can tell you about that.

Q. You ordinarily insure in a mutual?—A. Yes, sir.

Q. That is, one located here?—A. Yes, sir.

LIFE OF A FISHING VESSEL.

Q. What is the ordinary life of a fishing vessel?—A. They will last, if they never go ashore, or get hurt, so they will be good for 30 years, and some for 25 years, according to how they are equipped.

Q. They are built very strong, are they not?—A. Yes, sir. It depends on the material they are built of.

GLOUCESTER'S ANNUAL LOSS OF FISHERMEN AND VESSELS.

Q. What is your average loss of fishermen in this one town per year? What is your idea about it?—A. I should think it would average somewhere about 10 to 12 sail.

Q. I mean the men.—A. I should think somewhere about 100 or 150 a year.

Q. It is regarded, is it not, as a very hazardous business?—A. Yes, sir.

Q. More so than any other business that a sailor goes into?—A. I don't know as it is, according to the number of men that go.

Q. How many men go out of this port?—A. I suppose 7,000 or 8,000.

Q. What proportion of those men should you say were residents here?—A. I should say one-half.

Q. What kind of fishermen are they?—A. They are first-rate men, most of them.

Q. Do they become skillful sailors?—A. Oh, yes.

SECOND CASE OF THE DRUID.

Q. Did you have any difficulty, after the difficulty you have described with your vessel, before you got home?

The WITNESS. On this last trip?

Senator FRYE. Yes.

A. Only the very night I went in they put an armed guard aboard and wouldn't allow any boats alongside. I could go anywhere I wanted after the first thirty-six hours, but nobody could come aboard after that.

Q. And the guard was put on your vessel every night?—A. Yes, sir.
 Q. How many nights were you in after that?—A. I think I was in five or six nights. The last two nights I was there he didn't put any guard aboard; he didn't put any guard aboard until after dark, and the next night (Sunday night), he didn't put any aboard.

By Senator EDMUNDS:

Q. Did you go into the same anchorage every time?—A. Yes, sir.
 Q. What was your object in going in?—A. The weather was bad, so I couldn't lie out; and the fishermen all went in.
 Q. You went in for safe harbor?—A. Yes, sir.

By Senator FRYE:

Q. Did you have a young man with you as a passenger who went down with you?—A. No, sir; I took a young man from a vessel down there that went in one of Rowe & Jordan's vessels; I took him to bring him home. When I got into Canso I reported; he was in a hurry to get home to go to college, but they would not allow me to land him; they allowed it at first, but fetched him back, and I finally had to take him aboard and bring him home.

By Senator EDMUNDS:

Q. What was the ground of that?—A. They said I had no right to land him there; I had taken him aboard outside the three miles, too.
 Q. Do you mean when he came back?—A. No, sir; when he first came aboard, I mean.

By Senator FRYE:

Q. So that he had to let his college wait and come home with you?—A. Yes, sir.

By Senator EDMUNDS:

Q. What custom-house was that?—A. Port Hawkesbury.
 Q. That was about the latter part of August, I suppose?—A. Yes, sir. We sailed from here the 10th of August, and that was along about the 1st of September I guess, or somewhere in that vicinity.

TESTIMONY OF CAPT. JEREMIAH HOPKINS.

GLOUCESTER, MASS., *October 4, 1886.*

Capt. JEREMIAH HOPKINS sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Forty-five.

Q. Where do you reside?—A. Gloucester.

Q. What is your occupation?—A. Fisherman.

Q. Master of a vessel?—A. Sometimes I am; yes, sir. At present I am a fisherman.

Q. How long have you been a fisherman, either as captain or in a different grade?—A. Thirty years.

Q. Where have your fishing operations been carried on?—A. In Cape Cod and here in Gloucester.

Q. Do you fish for cod, or mackerel, or both?—A. Both.

Q. That is, sometimes you go on a voyage for mackerel and some times for cod?—A. Yes, sir.

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- Q. No vessel fishes for both at the same time, I suppose?—A. No, sir; no more than to catch a few for eating purposes.
- Q. I mean as a business?—A. No, sir.

INSHORE FISHING.

- Q. How many years, if any, have you fished in the waters of the Gulf of St. Lawrence and what we ordinarily call British waters, although outside of the three miles?—A. About ten years out of the thirty.
- Q. What ten years were those?—A. From 1857 to 1867.
- Q. What were you fishing for at that time?—A. Mackerel.
- Q. Where did you fish?—A. We fished off Magdalen and Prince Edward's Islands and in the Bay of Chaleur.

By Senator FRYE:

- Q. With hook and line?—A. Yes, sir.

By Senator EDMUNDS:

- Q. Where did you take the bulk of your fish in respect of the three miles from shore, inside or out?—A. Off Prince Edward's Island, mostly.
- Q. How far off from land mostly?—A. Mostly from 3 to 10 or 15 miles.
- Q. How was it in respect of other fishermen who were engaged about there at the same time? Where did they get the bulk of their fish—inside the three-mile shore line, or outside?—A. I should say outside the three-mile limit.

SUPPLIES.

- Q. Did you find it necessary to go to Canadian ports very often for supplies or other things in the ten years you were down there?—A. At that time we did; at that time we used to fit out with barrels and salt down there.
- Q. Do you know where the salt came from, whether it was American salt that had gone in under the reciprocity treaty?—A. I don't know.

EXTENT OF MACKEREL FISHERIES.

- Q. How did the catch of those ten years in those waters compare with the last ten years?—A. The catches during those years were a good deal more than they have been during the last ten years.
- Q. How many vessels do you think per year during those ten years were engaged in fishing up there?—A. I suppose there were 300 or 400 at that time.
- Q. In round numbers how many are engaged in fishing down there now?—A. I shouldn't think there were over 100 or 150; I haven't been in the Bay fishing at all for the last ten years.
- Q. Then you only know from what you see, vessels going out of this port?—A. Yes, sir.

INSHORE CODFISHING.

- Q. Where have you carried on fishing chiefly during the last 10 years?—A. I have been cod-fishing on the Nova Scotia coast, around Shelburne, for the last five or six years.
- Q. How far from land did you take your codfish?—A. From 15 to 20 miles.
- Q. Have you ever fished for codfish inside the three-mile limit?—A. No, sir.

BAIT.

Q. What sort of bait have you used?—A. These last three years we have been using squid.

Q. Where did you get the squid?—A. At Provincetown, Cape Cod, and caught them on the ground after August.

Q. Right in the very place where you used it for bait?—A. Yes, sir.

Q. I should not suppose the codfish would need to bite your hooks if the squid were so plentiful as that. What depth do you fish there?—

A. All the way from 55 to 90 fathoms.

FIRST CASE OF THE ABBIE A. SNOW.

Q. Did you have occasion to go ashore during those times you have been fishing down there?—A. Yes, sir; the last two or three years they have had to go into Shelburne; I was in there three weeks ago.

Q. What for?—A. Stress of weather, to take water, and such things as that, and to repair damages.

Q. Have you been molested in any way?—A. I have.

Q. Tell us all about that, and when it was.—A. I couldn't tell the date and the month the first time I was in there, but it was this year.

Q. By the way, give the name of your vessel.—A. The schooner Abbie A. Snow.

Q. Go on and state what happened.—A. The captain was taken sick; we went into Shelburne; the cutter wasn't there; the collector of the port told us we would have to enter the vessel; we entered her and he gave us permission to land the captain; then I took her myself, the captain being sick. We went out on the grounds and stopped ten days, and when we came back this cutter was there. We were coming alongside the wharf, as we had done before when we put the captain ashore, but we hadn't anchored when this cutter boarded us and told me to anchor. Very well, we anchored. "Are you master?" he says, and "How many on board?" I told him I was in the room of the master, at present. He asked what the vessel's name was; I told him. Says he, "How many men have you got?" I told him ten. "How many dories?" I told him four. He asked me what I came in for; I told him to fill water and for the captain. He says, "Why didn't you tell me this before, that you came in to get the captain?" Says he, "I want no insolence from you whatever." Said I, "I have given you no insolence." Said I, "You asked me the question how many boats and how many men, and I can't see as I have given you any insolence." "Well," he says, "you treat me as a gentleman, and I'll treat you as a gentleman." Says I, "I have treated you as a gentleman." He says, "I want no insolence from you; you remain on board, and I will go ashore and get the captain, and then you will enter your vessel, and fill your water, and proceed to sea." He says, "Your crew will remain on board until the vessel is entered." By that Captain Gill he came down, and I carried the papers to him, and he entered her and we filled our water and came out. The next trip I went down, which was about three weeks ago—

Q. By the way, do you know the name of the cutter and the captain?—A. Yes, sir; his name was Quigley.

Q. What was the name of the cutter?—A. The Terror.

SECOND CASE OF THE ABBIE A. SNOW.

The next voyage we went down before we were on the fishing ground at all; the weather was bad, and we put into port for shelter.

Q. What time did you order up aboard and he lay the town side of his ter. We hours then his boat e and filled right off I hurry about go out." twenty-four staying he to sea." what more don't want Q. That in about 5 last he an he chased the light- he did so vessel lian kept her there, and down off

Two nig time is w Q. Did bottom an time he ca revolvers, volders to the vessel When we man is ma comes in h told that t Q. That Yes; "if trouble." fore this t try or any no flag wh car conduc Q. When We remain and left h Q. Was was a forti

Q. What port?—A. Shelburne; and he was there. This is the second time that he has boarded us. We went around his stern, and he ordered us to luff up in the wind until he boarded us, and he came aboard and told us we would have to anchor. We went and anchored, and he lay down to a place called Sand Point, three or four miles from the town where the collector's office is, and he ordered us down alongside of him at Sand Point, and he gave me permission to fill some water. We came in in the morning early; hadn't been there twenty-four hours then. When 12 o'clock came and we were down below at dinner, his boat came alongside and told us to fill our water. We went on shore and filled water and came back, and because we didn't get under way right off he told us he wanted us to get out. I told him I wasn't in no hurry about going out. He says, "I am going out, and I want you to go out." "Well," said I, "we have the privilege of staying here twenty-four hours, don't we?" He says, "You have the privilege of staying here for nothing; now, you have filled your water you must go to sea." "Well," says I, "I have entered the vessel, and I don't know what more he wants." Said I, "I ain't in no hurry about going out; I don't want to go out until about dark."

Q. That was the same day you had come in?—A. Yes, sir; we came in about 9 o'clock and entered the vessel about 10 in the forenoon. At last he annoyed us so much that we got under way and went out, and he chased on behind us, and when we got within a quarter of a mile of the light-house we hauled down the jib, hove to, and when we did that he did so, too, and began to man his boat. I didn't want to lay my vessel liable to any seizure or anything, and so I got a little scared and kept her off, and calculated where the three miles was, and hove to there, and then if he took us he might. But after he found we were down off shore he let us alone.

THIRD CASE OF THE ABBIE A. SNOW.

Two nights after we were driven in again by the weather, and this time is where the trouble came.

Q. Did you lose your anchor?—A. No, sir; we just kedged over the bottom and went away from our trawls; it was blowing heavy. This time he came on board himself personally with men with cutlasses and revolvers, and left a guard on board, and then with cutlasses and revolvers took me in the stern of his boat and carried me ashore, entered the vessel, and gave me strict orders to allow no man to go on shore. When we got up to the collector's office he says to the collector, "This man is making this harbor a place to frequent," and he says, "if he comes in here any more I shall put him to a good deal of trouble." He told that to the collector of the port.

Q. That is what the captain of the cutter said to the collector?—A. Yes; "if he comes in here any more I shall put him to a great deal of trouble." So the next morning we got under way. The two times before this that he came on board he had no flag to represent any country or anything else, neither on his vessel nor in the stern of his boat, no flag whatever; I didn't know whether he was a naval officer or a car conductor.

Q. When he brought you back this last time what did you do?—A. We remained there until the next morning, and then got under way and left him.

Q. Was that the last of it?—A. That is the last I saw of him; that was a fortnight ago.

BAIT.

Q. Is it necessary now, in conducting the codfish business, to go into any of these places for bait?—A. No, sir; it is not.

Q. Is it really necessary to go in for any purpose except to find shelter or to repair damages suffered?—A. That is all I know of.

OUTFIT, CAPACITY, ETC., OF THE ABBIE A. SNOW.

Q. How do you get fresh water down there at Sand Point, Shelburne Harbor, for instance?—A. We carry our barrels ashore and get permission to fill them at the wells of private individuals.

Q. How many men do you carry on your vessel?—A. Ten, all told, including the captain.

Q. What is her tonnage?—A. Thirty-four tons.

Q. A small vessel?—A. Yes, sir.

CODFISH.

Q. How many pounds of codfish can you bring from the Banks?—A. She will bring about 50,000 pounds, but we haven't had that many this year; about 40,000 is the highest this year.

Q. How do you cure them on board?—A. We dress them, split them, and put them into the hold, and salt them in barrels.

METHOD OF CURING CODFISH.

Q. Do you kench them?—A. Yes, sir.

Q. How do fish cured that way compare with those cured on shore, in point of quality?—A. I think they are fully as good, that is, if they have been salted properly.

Q. Do you put on all the salt they will take when you kench them that way?—A. We have a kind of system of so many bushels of salt to what we call a tub of fish.

Q. Does it make a pickle?—A. It makes a pickle itself.

Q. So that when you get home they are in brine, I suppose?—A. Yes, sir; they are in brine.

Q. What is done with them when you get here? Are they treated any further?—A. They are salted in what is called butts—molasses hog-heads.

Q. I suppose that brine drains out and dries the fish?—A. No, sir; the brine is in there and keeps all the time.

Q. How long are they kept in that condition?—A. All the way from a month to two months; some keep them longer, and some shorter, according to the weather.

Q. What is the next step?—A. Then they are washed out and piled about two feet high on what they call water-horses; from the water-horses they go to the flakes and are dried.

Q. You think that a fish treated that way is just as good, if I understand you, as one that, if you had the privilege, you would carry on shore and put on a flake at Sand Point?—A. Yes, sir; they command a higher price in our markets than the dried fish—the way they are dried.

Q. So that, as I understand it, for your business it would be no object to have the right up there at any of those places to go ashore for the purpose of curing your fish?—A. Not one particle, sir.

Q. How far this year?—

Q. Were there?—A. N the way from

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THREE-MILE LIMIT.

Q. How far off shore up in those waters have you done your fishing this year?—A. All the way from ten to fifteen miles, sometimes twenty.

Q. Were there Canadian vessels up there fishing when you were there?—A. No, sir; there were some small boats inshore from us, all the way from three to eight miles off the land, but we didn't fish there.

Q. These small boats up there get the large part of their cod more than three miles out, do they not?—A. I think they catch them outside the three-mile limit. It may be that sometimes in the fall of the year fish will go further in.

FREE FISH.

Q. If I understand you, then, there is nothing of advantage to American fishermen to be had from the Canadian Provinces that would be an equivalent for allowing Canada to have the right to bring her fish into our markets free?—A. No, sir.

Q. You really do not seem to need anything from them, except shelter in stress of weather or in case of damage?—A. That is all, and the privilege of going ashore or making harbor; and then when a vessel is entered in port the crew ought to have permission to go wherever they please if they are in health. All other countries do that, and I don't know why the Dominion of Canada can't. I don't see why she has any more right to prohibit crews of vessels from visiting the shore than any other country.

THE ABBIE A. SNOW'S PAPERS.

Q. Your vessel, I suppose, had only the ordinary fishing papers?—A. That is all; the enrollment and license.

Q. Did you show the visiting officer your papers, or did he demand them?—A. He didn't demand them; I carried them to the custom-house, and the collector looked at the license, but nothing more.

By Senator FRYE:

Q. Did you also have a permit to trade?—A. Yes, sir.

TESTIMONY OF CAPT. JOHN CHISHOLM.

GLOUCESTER, MASS., October 4, 1886.

Capt. JOHN CHISHOLM sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Forty-four.

Q. Where do you live?—A. I live in Gloucester.

Q. Are you a native of the United States?—A. I was born on Cape Breton Island.

Q. Are you naturalized?—A. Yes, sir.

Q. How long have you been naturalized?—A. Sixteen years.

Q. What is your occupation?—A. Fishing.

Q. How long have you been engaged in that occupation?—A. Twenty-two years in this country.

Q. Have you lived here all that time?—A. I have lived here the last sixteen years, and off and on before.

Q. What kind of fishing have you been engaged in?—A. Mackerel fishing.

Q. You have not fished for cod?—A. Not much since I have been master.

Q. How long have you been master?—A. Sixteen years.

THREE-MILE LIMIT.

Q. Where have you fished for mackerel?—A. On the American coast.

Q. Have you fished in the waters of the Gulf of St Lawrence?—A. I did in 1879.

Q. You only fished up there one year?—A. I fished there in 1879, and also a little in 1882 and 1883.

Q. Where did you fish on those three occasions?—A. I fished from the mouth of the Bay of Chaleur, Point Miscon, down to Prince Edward Island.

Q. How far off shore did you conduct your operations?—A. We got all our first fare off shore.

Q. How far off shore?—A. From five to fifteen miles.

DIFFERENT FISHING GROUNDS.

Q. How large was your vessel?—A. Eighty-two tons.

Q. Did you fish with a purse-seine?—A. Yes, sir.

Q. Other years when you fished up there where did you catch your fish?—A. We fished there a short time, and caught 130 barrels, most all inshore.

Q. Which year was that?—A. That was in 1882.

Q. Did you go home with only 130 barrels?—A. Yes, sir.

Q. What would be a full fare?—A. Four hundred barrels.

Q. Then the third season where did you fish?—A. From Prince Edward's Island to the Strait of Canso, but didn't get any, and came home without any.

Q. About how much did you get for the 130 barrels that you captured in-shore that year?—A. About \$10 per barrel.

Q. How much profit did you make?—A. I can't tell exactly, for we made up the balance of the trip on the American coast coming home.

Q. When you got back to our coast you struck the fish again?—A. Yes, sir.

Q. If you had only got this 130 barrels what kind of a fare would you have made?—A. I would have made a loss.

THREE-MILE LIMIT.

Q. From your knowledge of the fishing up there, captain, where do you say the great bulk of the mackerel that are caught by vessel with purse seines are caught, whether inside, or outside the three-mile line?—A. The great bulk is caught outside the three-mile limit; I was there in 1885, and I was there this year.

Q. Where did you fish in 1885?—A. I fished in the bend of the island, on what they call the west shore.

Q. When you fished there in 1885 was it before the first of July, or afterwards?—A. From the first of July until October.

Q. You fished outside of the three miles then, I suppose?—A. We got pretty near a third of our fish inside—what we call inside; I don't know as it was inside.

Q. Did anybody molest you? Were there any Canadian cruisers about there at that time?—A. Not in 1885.

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Q. Were there many other American vessels up there at that time?
—A. Twenty-one sail, I believe, at one time in 1865; some going and some coming.

Q. Where did they catch the most of their fish?—A. Some got most outside; some caught a few inside, I suppose.

Q. Do you think the right to fish inside the three miles is of any great value to the American fishermen?—A. I don't think it is any at all.

SEINE-FISHING.

Q. They all fish now with seines—without bait and without hook and line?—A. Without hook and line.

Q. I suppose it is much safer, saying nothing of the amount of fish to be caught, to fish off in deep water with those expensive seines, is it not?—A. Yes, sir.

NATIONALITY OF FISHERMEN.

Q. What is the nationality of the majority of the people on your vessel, these ten men you have?—A. Four are from the Provinces; the rest are from the State of Maine and Gloucester.

Q. Did you pick up those four provincial men in the Provinces?—A. No, sir; I shipped them here; I sent them money in the spring to pay their passage here so as to ship with me.

Q. Are they people you knew?—A. Yes, sir; I knew them before.

Q. Did you send for them in the spring because you understood that you would not be allowed to take them on board up there, or because it was more convenient for your purposes to ship them here?—A. We would rather ship them here, and so I sent them money to bring them here. We are never short of men here; we can ship men here at any time.

OFF-SHORE FISHING.

Q. Where have you fished this year?—A. I fished from 5 to 15 and 20 miles off land.

Q. What land?—A. Prince Edward's Island and Nova Scotia.

Q. Was it codfish you caught this year?—A. No, sir; mackerel.

Q. Have you seen any Canadian vessels fishing this year?—A. Yes, sir.

Q. Where did they chiefly fish—close inshore, or far out, like the rest?—A. They had the privilege of fishing inshore, but most of them fished with the Americans.

By Senator FRYE:

Q. How many trips did you make this season?—A. Two trips.

Q. Up there into those waters?—A. Yes, sir.

Q. And all of your fish were taken without the three-mile shore line?—A. Yes, sir.

Q. What was the result of the two trips? How many mackerel did you take?—A. I took 482 barrels the first trip, and 470 this last trip.

Q. And, as I understand you, the two times that you did fish within the three-mile shore line, the first trip you got 130 barrels, and the second you got none.—A. That is right.

BAIT.

Q. Is there any occasion for a cod-fisherman to go into the ports of Canada, except in bad weather, for wood or water or to repair?—A. No, sir.

Q. Can you get bait enough without going there?—A. Most always; they catch their squid on the Banks.

Q. How would clams do if you can get them?—A. The hand-line fishermen always use clams.

By Senator EDMUNDS:

Q. And the trawl fishermen use salt bait, do they?—A. They use fresh bait.

Q. What kind of fishermen use salted bait?—A. Cod-fishermen use salted bait.

Q. They use clams?—A. Yes, sir.

FREE FISH.

By Senator FRYE:

Q. During this year did you have any trouble up there?—A. No, sir.

Q. As a fisherman you do not know of anything that we need of Canada that you would be willing to give her in return for the privilege of sending her fish into our market free?—A. No, sir; I don't know of anything that we want of them.

COMPENSATION OF FISHERMEN.

Q. What are the average wages that fishermen have made every year in the fishery business, year after year, say for the last ten years? I do not mean masters of vessels, but the men themselves.—A. I shouldn't think it would be far from \$40 a month.

Q. The year through, or only during the fishing season?—A. The fishing season.

Q. Which is seven or eight months?—A. Seven months and a half for mackerel fishing.

Q. Do most of these from Gloucester sail on shares?—A. They all sail on shares.

CANADIAN METHODS CONTRASTED WITH AMERICAN.

Q. How does the cost of the outfit of an American fishing vessel compare with the cost of the outfit of a Canadian fishing vessel?—A. We feed our men better, and we pay them in cash as soon as the fish are weighed off; but down there the vessel-owners have stores and they pay their men out of the stores the year round.

Q. And have a big profit on the goods?—A. They have two profits: the cash price and the retail price.

Q. Does the Canadian fisherman have to wait for his money until the cargo is sold?—A. They have to wait; they settle only once a year.

Q. And the American fisherman is paid as soon as his trip is ended?—A. Every trip he is paid in cash.

CANADIAN WAGES.

Q. About curing the fish; do not Canadian people employ very much cheaper labor to cure their fish than Americans?—A. Yes, sir; it is cheaper.

Q. Do they employ women and children?—A. Yes, sir.

Q. At how much per hour?—A. They probably pay a woman a shilling a day.

Q. What do you pay her?—A. We pay a woman 25 to 30 cents an hour on the wharf here.

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CANADIAN VESSELS.

Q. Do the Canadian vessels cost less than yours?—A. They can be built there at from \$18 to \$20 a ton; we have got to pay \$45 a ton.

Q. And yours will cost about \$100 a ton to fit for sea?—A. Yes, sir.

Q. And theirs will cost about \$60 a ton to fit for sea?—A. Yes, sir; and they receive a bounty.

BOUNTY.

Q. How much bounty do the Canadian fishermen receive?—A. I can't say; I think it is \$1.80 a ton.

Q. The boatmen receive a bounty, too, do they not?—A. Yes, sir; as soon as they can prove that they have landed 1,200 pounds of fish.

PRIVILEGE OF LANDING IN CANADA.

Q. As a matter of fact, has there been any necessity whatever during the last 15 years for our fishermen to use the Canadian shores for drying purposes?—A. No, sir.

Q. So that that is a privilege which now is of no use?—A. No use. The fish have got to be salted before they are cured, and they are salted aboard the vessels.

WHOLESALE AND RETAIL PRICES.

Q. You sell your fish here to the wholesaler?—A. Yes, sir.

Q. During the last 15 years has the business been profitable?—A. No, sir; the business has not been profitable.

Q. Take the whole 15 years together, have your vessels netted 10 per cent.; that is, 10 per cent. over and above insurance, deterioration, and everything?—A. No; I don't think they have.

RELATIVE COST OF UNITED STATES AND CANADIAN VESSELS.

By Senator SAULSBURY:

Q. You were speaking of the cost of construction of vessels in Canada and here. I think I understood you to say that the cost of a Canadian vessel was \$25 to \$30 per ton; that is for the hull, I suppose?—A. For the hull and spars.

Q. What do you say it would cost here?—A. Forty to forty-five dollars a ton.

Q. What is the reason for this difference in the cost of construction? Is it because our vessels are better built, or because the materials entering into the construction of them are subjected to duty in this country?—A. Labor is higher here, and we have got to pay for protection on the manila and everything.

Q. Is it, or not, true that the American fishing vessels are better finished and have more work expended upon them?—A. It may be so, and they may last longer, but for their purposes the British vessel is just as good.

Q. Then another item is the difference in cost of labor in curing the fish?—A. Yes, sir.

Q. You say they employ women and children?—A. Yes, sir.

Q. If the same class of labor in curing fish was employed here, what would the difference be principally? Would the difference in cost be so great as it is?—A. I don't know.

FISH CAUGHT IN AMERICAN AND CANADIAN WATERS.

Q. What proportion of the fish that are brought into this market do you estimate are caught in British waters?—A. I couldn't answer that very well. The large part of the mackerel this year have been caught in British waters; that is, beyond American waters. There are no cod-fish hardly caught in the British waters this year.

Q. Do you know anything about the proportion of salt and fresh fish that come into these markets?—A. No, sir; I do not.

TESTIMONY OF CAPT. SYLVANUS SMITH.

GLoucester, Mass., October 4, 1886.

Capt. SYLVANUS SMITH sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Fifty-eight.

Q. Where do you reside?—A. In Gloucester.

Q. You have lived here a long time?—A. I am a native of the Cape, and I have lived here in this town thirty years.

Q. What is your occupation?—A. I am carrying on the fishing business at present.

Q. Do you mean as master of a vessel?—A. No, sir; as owner and fitter. I was master of a vessel seventeen years, fishing in the Gulf of St. Lawrence.

Q. Do you buy and sell fish?—A. Yes, sir.

Q. And fit out vessels?—A. I own a fleet of vessels, and buy to some extent outside of the fish that my own vessels catch.

Q. How many vessels have you?—A. I have 13 at present.

Q. Have you ever been a fisherman yourself?—A. I went until I was 35 years of age; I began when I was 10 years old; I was master for 17 years.

Q. And you quit fishing what year?—A. In 1864.

TREATY OF 1854.

Q. Then you had experience in fishing both before the reciprocity treaty of 1854 and during its existence?—A. I was fishing in the Bay of St. Lawrence in 1849, and all the time after that until 1864.

Q. What was the effect of the treaty of 1854 on the American fishing interest?—A. Well, I don't know as there was any particular effect on it at all. There was some little point about the privilege we had in the fall of the year, in windy weather, of going into harbor, if we got a deal of fish, to cure them. Before the treaty they didn't allow us to do so. I never caught many fish inshore; very few were caught where I fished.

Q. Were you fishing for cod in those days?—A. I was cod-fishing on our shore the fore part of the year; after July we changed our business and went to mackerel fishing; that was the general custom at the time.

Q. But so far as the right to catch fish inside of the three miles was concerned, the treaty of 1854 made no practical difference?—A. I don't think it made much difference; occasionally there would be some fish

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INSHORE FISHERIES.

Q. Taking the general run of the year, in and out for ten or twenty years together, according to your observation and experience, the value of the inshore fishing is very small, is it not?—A. It is very small; that is, to a master of a vessel and fitter; I have been having vessels running since that time.

Q. While the treaty of 1871 was in operation, what occasion was there for fishermen to fish within three miles on those shores; how much practical advantage was that?—A. It wasn't any to me. I had several vessels along there during those years, and they made a failure of it, and came home to fish on our shores. Previous to this year, for the last ten years, mackerel have been plentiful on our shores; this year it has been almost a total failure; some few that went into the Bay didn't get anything.

PURSE-SEINES.

Q. Do your knowledge and information cause you to agree in opinion with the other gentlemen whom you have heard—and in fact with all the people we have seen, from Provincetown up—as to where the great bulk of the mackerel, take it year in and year out, caught in the Gulf of St. Lawrence, that they are caught outside of the three miles with purse-seines?—A. When I went there fishing we caught ours, as I say, outside the three miles; but I never went seining; knowing the character of the bottom there I shouldn't suppose it would be practicable to fish with a seine.

By Senator FREY:

Q. You fished with hook and line?—A. With hook and line. I shouldn't suppose it would be practicable to fish with a seine there; it has a very rocky bottom and shoal water.

CURING FISH ASHORE.

By Senator EDMUNDS:

Q. Perhaps you have been along those shores up there enough to know whether or not they are occupied now by people?—A. I think it is pretty well settled all around the coast, so far as I know.

Q. In that case, under the old treaty, the question might arise whether you would be obliged to arrange with the shore-men for labor in drying your fish or anything else that you wanted done on shore, or otherwise it might be an invasion of the rights of private property.—A. That mode of fishing has much changed. There are no fish cured ashore; it is a thing of the past; I don't think there has been anything of the kind for thirty years.

Q. Are there not some cured ashore at St. Pierre?—A. Those are cured by the natives there, not by Americans.

KENCH-CURED AND PICKLE-CURED FISH.

Q. What do you think of the value, respectively, of shore-cured fish as compared with those that are kench-cured, as it is called I believe, and brought home and pickled?—A. For our market here their fish haven't much value. We have what we call the pickle-cured fish; that is what suits our market. Their market is more for the Brazils and West India market, and the foreign trade generally.

Q. How are they, in respect of quality, as a good food?—A. They are good food enough for the climate they go into, but they are not good for our trade here.

Q. What I want to get at is this: Assume that you keep house, or at least eat meals somewhere; if you want to have to-morrow morning for your breakfast the best possible salt codfish, would you have a good St. Pierre cured fish, or a kench-cured fish?—A. If I was going down to my warehouse to take out fish I should take out a Georges pickle-cured fish. In no case would I take a St. Pierre fish to carry it away because it is not the kind of fish that I want at all. They do cure some for table use to cut up and eat raw; sometimes a few are used that way.

Q. For the general consumption of people who eat fish you think this method of kench curing is just as good as any other?—A. We have no call in our trade for any other kind.

Q. Now come to exportation. The drier the salt fish is, I suppose the better it will bear a warm and humid climate?—A. They have to be dry-cured for exportation.

Q. Can you treat these kench-cured fish when you get them here at Gloucester in such a way that they could be sent to the West Indies or to the East Indies and not spoil?—A. They have to go through the process of pressing and drying more. One way would be to put them into brine in butts; the other way is to wash and dry them and put them out on the flakes several times in order to get the requisite dryness. At times we make large quantities for the Boston market; they are made by the same process that they make them at St. Pierre and Nova Scotia. I think they make a specialty of that, and I think the fish of that class are fully better than ours, because they make a large quantity of fish that way, and it is not often we make them. Sometimes when the market is poor we have a call from Boston.

Q. There is nothing in the fact that you bring them in in brine?—A. Our fish are handled in the same way that theirs are until they are brought ashore.

DUN FISH.

Q. Are these particular kind of fish we have been speaking of called the dun fish?—A. No; it is the age that gives the name of dun.

Q. Take a dry-cured fish and put it through the process, and it then becomes the dun fish?—A. It would after it had the age on it.

RECIPROCITY.

Q. From your observation what advantage would it be to the fishery interests of the United States to make this sort of an exchange between the United States and Canada: Canada to give us the right to cure fish on her shores, the right to ship fish by rail, the right to fish within her three mile shore line, the right to buy bait, tobacco, and everything else required by the fishermen; we, in return, to give the provincial men

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right to do the same things on our shores, and the right to bring their fresh salted fish in free? You would hardly make a trade of that kind, I suppose?—A. I should say it would be a very hard trade for us.

BAIT.

Q. For the cod-fisheries, do you want to go there now for bait?—A. I have some seven or eight vessels that have been cod-fishing this year, and I think they have not been to the provincial ports at all for bait; they have caught most of their bait on the Banks.

Q. Have you generally sent out a quantity of clam bait?—A. We haven't fished that way, but we used to years ago.

Q. Clams are used on trawls?—A. Not a great deal.

Q. What do you use on trawls?—A. Sometimes we carry salt herring and mackerel, and they fish with what they call shack, and birds, too. I had a vessel that went this year that way—cut up small fish and anything of that kind for bait. Buying bait is a thing that has come up more recently. Vessels used to go to the Banks with salt bait, and fish with clams or with birds and shack and such bait as they could take from the fish. Some ten or fifteen years ago the vessels began to go in on the Bank trips and get their bait in Newfoundland. I am speaking more particularly of the Grand Banks. But I doubt if that has been any benefit to us. We have paid out a large amount of money there, while the Cape Cod vessels that have pursued the old way of fishing have made better voyages, I think, than ours have, because they have saved large expense; and if we are unable to get our bait there, it has been the case for some time, we will go back to the old method and adapt ourselves to circumstances.

Q. There is bait enough to be caught in our waters, is there not, taking clams, menhaden, and what herring we have?—A. We have no trouble in baiting our vessels without going there to buy it. The vessels have in past years often gone in there just because it has been the custom, and some of them started this year the same way, but after they found that they were prohibited from going in for bait they have adapted themselves to circumstances, and have got bait on our own coast and on the Banks.

Q. And I suppose it is rather a temptation, when there is the right of free entry, to the fishermen, because they rather like to go ashore at a pleasant little village and have a good little time?—A. We think that operates against us as owners.

SEIZURES.

Q. Have any of your fleet been molested or disturbed in any way since the expiration of the treaty?—A. None of my own fleet particularly. The Adams was a vessel from my wharf; she was owned by her captain.

Q. Where is the captain of the Adams?—A. The captain was not aboard at the time; it was Captain Lewis who was aboard. But both captains are away.

Q. And none of the vessels in which you have an interest were disturbed?—A. I have had five vessels fishing in the Bay of St. Lawrence this year for the first time for several years. My fishermen have fished on this coast for mackerel for several years, but in the absence of mackerel on this coast they have had to go into the Bay with the rest of them. I have been advised that they got their fish, all of them, from

6 to 10 and 15 miles offshore, and, so far as cutters were concerned, they hardly saw one. They hadn't any occasion to go inshore, and, on the whole, they thought it was an advantage to be prohibited from going inshore.

COST OF VESSELS AND OUTFITS.

Q. About how many men compose the crews of your vessels?—A. Fifteen to eighteen in each.

Q. What would be about the average tonnage?—A. Seventy-five to eighty tons.

Q. What would be the average cost of those vessels, hull and spars?—A. Hull, spars, and sails, about \$8,000 for mine.

Q. How much does the outfit cost?—A. About \$2,500 to \$3,000 with the seines.

LIFE OF SEINES.

Q. How long will one of these purse-seines last?—A. About 2 years, I should say.

Q. Then they get rotten?—A. Then they get rotten. They are made of very fine twine, and some portions of them have to be rounded in that time; perhaps in one season some portion will give out.

Q. Even when the net has met with no serious accident?—A. Yes, sir. Perhaps a third of it would have to be taken out the second year, out of the middle of it, the bunt.

NATIONALITY OF FISHERMEN.

Q. What is the nationality of your crews?—A. From observation I should think about one-third are foreigners of different countries, and two-thirds American. I speak more particularly of the seining vessels. I think the seine fishermen are more largely American than the cod-fishermen; perhaps half of the cod-fishermen are Americans.

By Senator FRYE:

Q. And two-thirds in mackerel fishing?—A. Yes, sir. I have got one man that has about the whole of his crew Americans.

By Senator EDMUNDS:

Q. I am taking it at large.—A. Taking it on an average.

EFFECT OF DUTY ON PRICES.

Q. Has there been any change in the retail prices of salt fish, so far as you have observed, which you can refer to the fact that a duty has been put on since 1885?—A. I don't know about the retail price; I am only familiar with the wholesale. So far as my knowledge goes, I know no difference.

Q. What has been the effect on the wholesale prices?—A. The duty went on a year ago last July; I think the price of codfish is about 25 per cent. lower than a year ago last July. As to mackerel, there has been a very short catch of mackerel, so few that there has been quite a large advance in price.

Q. Has the advance gone up quite beyond the duty?—A. You might say there has been comparatively no mackerel; there has been none of this coast; and, altogether, there has been a short catch, so that the duty has not affected it.

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Q. Did you notice any sudden rise immediately after the 1st of July, 1885, in the wholesale prices of any kind of fish, as a consequence of the duty going on at that time?—A. There has been no rise in fish on that account.

Q. None of you dealers put up your prices on account of that fact?—A. No; it has been the other way. We had laid in large stocks of fish, the general impression being that we might get some advance, but it went the other way; it was ruinous, and our prices have gone down to almost nothing; that is, where fish fetched two years ago \$3.50 a quintal, the price went down to \$1.75; that is, while the duty was on, the price was \$3.50, and the same fish went down to \$1.75 and \$2 for 114 pounds.

EFFECT OF QUALITY ON PRICES.

Q. How was the mackerel catch last year?—A. It was quite large last year. There is another thing that has affected the price, and that is the quality. Last year they were No. 2, and small ones at that, and the price was very low; this year the mackerel that have been caught are very large and of better quality. So that a portion of the advance in price has been due to quality.

Q. But the quantity has been much diminished?—A. Very much diminished; the catch has been very small. The statistics of the Fish Bureau show that.

FRESH AND SALT FISH.

Q. Where do you sell the most of your salt fish?—A. I sell mine on the markets here, to the dealers mostly.

Q. You do not ship to distant points?—A. Not to any great extent.

Q. Do you deal in fresh fish at all?—A. No more than that my vessels go fresh-fishing and their fish are sold to the dealers in Boston; that is all.

LAY.

By Senator FRYE:

Q. I would like to have you give the exact lay of the fishing business with your sailors, you own so many vessels.—A. In hand-line fishing each man has his own fish, and one man can make a large trip while another man will make quite a small one. Then they have what they call a half-line. The crew pay the cook's wages, the ice and the bait, and perhaps some other little bills, which are called stock charges. After those stock charges are taken out the rest is divided amongst the crew according to their catch.

Q. How divided? What proportion of the whole catch does the whole crew get—half?—A. One-half of their own catch; half of each man's catch. After taking out the stock charges the crew gets one-half of the whole.

Q. Then each man has of that half the proportion that he takes with his line?—A. Yes, sir. Among trawl fishermen some go that way, and some heave altogether and then average.

Q. Now mackerel.—A. In the mackerel fishery, taking the average of mackerel sold here and put into barrels, the barrels have to come out of the stock; some few other little trivial charges come out of the stock, and out of the remainder comes the cook's wages and the crew's half, and the rest is divided equally amongst them, the owners paying the master his commission. His lay is a percentage on stock, of 4 to 6 per cent, whatever he may ship for.

Q. That comes out of the owner?—A. That comes out of the owner.

Q. The owner furnishes the vessel and outfit, seines, &c.?—A. He furnishes everything.

Q. Insurance and everything of that kind?—A. Everything of that kind.

COMPENSATION OF FISHERMEN.

Q. What are the average annual earnings of these fishermen?—A. I have not looked it up, but I should say that during the last two years \$200 would be about an average.

PROFITS AND LOSSES.

Q. What have been, during the last ten or fifteen years, the average profits of your vessels engaged in that business?—A. I haven't figured it up that way. I know the average profits have been very small, and I believe it has been the other way.

Q. Losses?—A. There have been losses; during the last five or six years more particularly we lost. I can explain that in this way: Previous to the treaty of Washington the Canadian fleet was small, and the general business of this country of course was better. We then got some profit from our business. After the treaty of Washington had been in force some three or four or five years we began to feel the effect of their competition, in our cod-fishing more particularly; it has been ruinous to us, and I don't know but it has been so to them. They have a very large fleet of vessels, some 300 or 400 sail, I understand, and the business since then has been very poor. A great many people have gone out of the business, and some fishing towns have almost gone out of it.

CANADIAN COMPETITION.

Q. What is the reason you cannot compete with them?—A. Cheap labor is one thing. Five or six years ago—I don't know just the date—fish were quite high; every Nova Scotia banker that came here with fish sold them on the market without paying duty, and every man who was a carpenter went to the woods and got out wood to build a vessel with, so that every spring there were from 50 to 75 new vessels launched. Those vessels were built of spruce and cheap qualities of hard wood, and were got up in every way cheap as to material. Those vessels were fitted out and manned. Of course their men went on the lay the same as ours, but they were fitted out cheaper. The iron, manila, and such stuff that went into the construction made their vessels cheaper. Then began the labor of curing fish. They hire their labor very cheap, our labor is costly, while theirs is of almost nominal value. The whole business is expensive with us compared with what it is with them. Our local taxation, as well as national, is high, and it has all got to come out of the proceeds of the business somewhere.

FREE FISH.

Q. Is it possible for Canada to give the fishermen of this country anything that you would regard as an equivalent for allowing her fish to come in here free of duty?—A. I can't see where there is anything.

Q. You do not know of anything you want?—A. I do not. All I should ask, as a vessel-owner, would be civilized treatment of our

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to have the same rights and privileges accorded to us that all civilized nations accord to each other, and indeed you might now say all the nations.

SALT AND FRESH FISH.

Q. As a matter of fact, has not the immense increase in the consumption and sale of fresh fish injured the market for salt fish?—A. I think it has to some extent.

Q. Is not that fresh fish consumption increasing very rapidly?—A. I think it is increasing very fast; it is going to be a large business in the future. I think the fisheries in future will be the great business.

FROZEN FISH.

Q. As you understand, the fresh fish come in free and are frozen?—A. Yes, sir.

Q. Do you want duty on fresh fish as well as salt?—A. I should think it would be very desirable. When a large quantity of fresh fish comes in they are put into houses and frozen, and they come in here very largely in the spring of the year. All down about the Bay of St. Lawrence and the Bay of Chaleur there are establishments that put up fish and send them into our markets, Boston, New York, Philadelphia, and all the business centers, in a frozen state. Those fish are purchased, and increase to some extent the market, and are displacing salt fish.

RENEWAL OF THE TREATY OF 1870.

Q. Taking into consideration the greatly increased consumption of fresh fish and the improved means of preserving them fresh, what, in your opinion, would be the influence upon the fishery business of the United States of a renewal of the treaty of 1870 for ten or fifteen years to come?—A. I think that the renewal of the treaty would be very discouraging and very disastrous to our business. Canadian vessels wear out a good deal quicker than ours. After the treaty of 1855 expired their fleet almost went out of existence. They built more vessels afterwards for the fishing business. These they have now will soon wear out. If the business continues with a treaty, they will build up a larger fleet, and the consequence will be that ours will decrease in the same proportion that theirs will increase. This is what is shown by statistics.

Q. And the result will be that they will get the benefit of increased consumption and increased markets, instead of us getting it?—A. Yes, sir. I think their cheaper labor will do the business in the future with free markets. A good many fishing towns in this country went out of business, finding it impracticable to carry it on under the treaty of Washington.

DEPRESSED PRICES.

By Senator EDMUNDS:

Q. Is the very low price of fish now attributable, in your opinion, to the fact that less fish product is consumed in the United States than in former years, or to the fact that there is an excess of supply beyond demand for consumption?—A. I think the fresh fish has partly taken the place of salt fish, and then the large amount that has been put on the market is another element. There has been a large supply. Then

perhaps there are some other influences, among which may be named the general depression of the business of the country. That, I think, would point towards a cause for the difference.

WAGES *vs.* LAY.

By Senator FRYE:

Q. At Provincetown and some other points we find on inquiry that the fishermen have demanded wages when for some years before they had been going on a lay. Whether or not the tendency of competition with Canada and a free market here will not be generally to cause the fishermen to demand monthly wages instead of a lay?—A. In the Bank fishing I don't think we could run our business except on the lay principle; the men must be partners in the voyage to make it successful.

Q. I was not asking as to the owners; I was asking whether or not the tendency of a free market for Canada and free and open competition with her would not make the business of fishing so uncertain that it would have a tendency to make the sailors demand wages instead of lay?—A. I think if the low prices continue as they are now they will have to have wages or else go out of the business.

Q. I want to go one step further: If the result is that the fishermen will demand wages instead of a lay, what will be the influence of that upon the owners of vessels?—A. We shall have to get out of the business.

Senator FRYE. That is what I supposed.

THE CASE OF THE D. J. ADAMS.

The WITNESS. I would like to make one little statement in regard to the Adams. While the Adams was tied to my wharf there was also a Nova Scotia schooner tied to the same wharf. We had had the Nova Scotiaman's fish several years under the old treaty, and he had come for such supplies and bait as he wanted. In the spring of the year we have our frozen bait, and our bankers take their supply of bait; and there was quite a number of Nova Scotia vessels came across here to get their bait for their Bank voyages. While he was taking his bait here and such supplies as he wanted the Adams lay to the same wharf—my wharf. Very naturally when the Adams went away on her next trip her captain had the impression that he was entitled to the same privileges down there that the Nova Scotia vessel had here. Having seen the Nova Scotia vessel take bait and other supplies here he went down into that port and took some small amount of bait there. In the early part of the year it was the general impression that our vessels were entitled to that privilege. Afterwards they learned differently and have kept away from there, and have had no cause to go there. The Adams had no need to go there, but that was one of the places she had been frequenting for bait and the captain of course thought he might as well go there for bait as anywhere else; he didn't know of any restrictions; he thought it was a mere matter of trade, that it was not fishing; and as several of their vessels had been in our port here he thought he had the same right to go there.

HERRING.

Q. As a matter of fact, whenever we have obtained bait there we have bought it; we have not undertaken to catch it?—A. Yes, sir; we always buy bait in Newfoundland and Grand Manan.

Q. About this herring fishery, have our vessels for the last ten years engaged in that at all?—A. Not in the salt herring fishery; not to catch them, but to buy them, that is all. I don't think there are any vessels go from this port, unless it is in the fall of the year. The boats off the harbor catch them here. But the business of going into the provincial waters for herring is not pursued here.

Q. It is not pursued in the United States anywhere, is it?—A. No, sir. In 1854 and 1855 we used to go to the Magdalens for herring. I have been several voyages. But that was a poor quality of fish, and of late years there hasn't been any of that kind of fishing done.

Q. Our vessels simply go up there and purchase their bait?—A. They simply go on trading voyages.

Q. Do we have the same kind of herring in our waters that they have?—A. I don't know any difference. Sometimes on the Labrador coast they get fat herring. I don't know much about the salt herring, but I haven't had much to do with it.

RATIO OF FISH CAUGHT IN AMERICAN WATERS TO THOSE CAUGHT IN CANADIAN WATERS.

By Senator SAULSBURY:

Q. You attribute the decline in the price of fish partly to the sale of fresh fish in our markets. What proportion of these fresh fish that are sold in our markets are caught in American waters, and what in British waters?—A. I haven't got much means of knowing, because their fresh fish go to the Western cities and New York and Philadelphia, and I don't know much about the quantity that goes there. We have but few here. We have had some few halibut trips landed here and sold to the dealers here, but otherwise I couldn't tell much about the proportion. I know at certain times of the year we have large quantities of fish come in from across the Lakes and New Brunswick, but I have no statistics as to the quantity.

Q. Do you know what proportion of the fish caught in American waters are sold as fresh fish?—A. No, I haven't any statistics on that; I couldn't say.

EXPORTATION OF FISH TO CANADA.

Q. You are engaged in the fish business; do you ever ship any fish to Canada?—A. I never did.

Q. Do you know whether or not there are any quantities shipped from the United States to Canada?—A. I shouldn't suppose there was. Some fish may be shipped up into Canada West; some of the Boston people may ship some there, but I shouldn't suppose to a very large extent. I don't know in regard to that.

EXTENT OF GLOUCESTER'S TRADE.

Q. What proportion of the fleet at this place is engaged in the mackerel fishery, as compared with the whole?—A. I should think about one-third.

Q. And the residue?—A. That is engaged in cod-fishing and catching bank halibut. I should say that there are some forty or fifty sail in the halibut fishery on the Georges and other Banks.

PROVINCIAL COMPETITION.

Q. Do the fisheries of the Provinces that are brought into competition with us apply to all kinds of fish, or simply to codfish and mackerel?—A. I think to all kinds. They send in a good many halibut, which they land on their shores and send by steamer to Boston. Last spring there was quite a large amount of fresh fish sent that way. I know at one time quite a large quantity.

WINTER FISHING.

Q. Is there any considerable proportion of your vessels engaged in winter fishing?—A. Most of my vessels are engaged in winter business on Georges Bank and up there. They take their bait here and go to the banks and back without making port.

THE RATTLER.

By Senator EDMUNDS:

Q. Do you know anything about the schooner Rattler that had some trouble up there? In the papers I have here she is said to belong to Gloucester.—A. I know the vessel and captain. I don't know any of the facts.

Q. Is the captain here?—A. I think not. Most of our mackerel captains are away.

THE HOWARD HOLBROOK.

Q. Is the schooner Howard Holbrook of this place?—A. She belongs to Howard & McKenzie of this place.

Q. She is not here?—A. She is not here.

THE HIGHLAND LIGHT.

Q. Do you know the Highland Light?—A. That belongs on Cape Cod somewhere.

Senator EDMUNDS. I see now; she belongs to Wellfleet.

THE A. R. CRITTENDEN.

Q. Then there is the A. R. Crittenden that is said to be of this port.—A. That belongs to Captain Chisholm.

Senator EDMUNDS. He did not tell us about that. Are any of the people present who were on board of her?

Captain CHISHOLM. The agent is here.

NUMBER OF GLOUCESTER VESSELS ENGAGED IN FISHING.

By Senator SAULSBURY:

Q. What is the number of vessels sailing from this port engaged in this business?—A. The whole number is about 440.

TESTIMONY OF SYLVESTER CUNNINGHAM.

GLOUCESTER, MASS., October 4, 1886.

SYLVESTER CUNNINGHAM sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Thirty-six.

Q. Where do you reside?—A. Gloucester.

Q. What is your occupation?—A. Fishing business and shipping

fish.

Q. Are you the owner of any vessels?—A. Yes, sir.

Q. How many?—A. Ten.

Q. What kind of fishing are they engaged in?—A. They are engaged in the Georges fishery—mackerel and halibut.

Q. How long have you been in this business?—A. Thirteen years, as partner.

Q. Have you ever been a fisherman yourself?—A. No, sir.

Q. Your information about where the fish are caught, and all that, is derived from the reports of your captains, I suppose?—A. Entirely.

MACKEREL.

Q. Taking the mackerel fishery to begin with, during the time you have been in the business where have they been caught?—A. Until this year, about all our mackerel have been caught on this shore. Whenever our vessels have been in provincial waters it has been very discouraging business; there have been no mackerel there of any amount, and, as a rule, what they caught were of very poor quality indeed. We have made a loss every year by sending vessels to the provincial waters. This year's catch on our shore has been almost a total failure, and our vessels have fished almost altogether in provincial waters since spring.

THREE-MILE LIMIT.

Q. Whereabouts in provincial waters were those trips made which were failures before?—A. On very nearly the same ground they are fishing this year—Prince Edward Island and the Magdalens.

Q. They are fishing this year outside the provincial maritime line, of course?—A. Yes, sir.

THREAT OF SEIZURE.

Q. Have any of your vessels experienced any difficulties or unfair treatment?—A. No, we haven't had any reported at all. As a sample of what we have to contend with there I will state that I had a letter the other day from a man saying that if I didn't send him some \$12 or \$15 he should report one of our vessels for having landed a man, and have her seized.

FREE FISH.

Q. From your knowledge and observation in this business, how do you regard the value to Americans of fishing inshore, as compared with the value to Canadians of free fish, both salt and fresh?—A. It has no value essentially. It would be a convenience to do away with all these restrictions, but they have got nothing to offer us for free fish that has cash value. They can only offer us what would be a convenience.

Q. You do not regard the inshore fishery as of any practical consequence?—A. It is nothing we should be willing to pay anything for.

BAIT.

Q. How is it in respect of the question of bait?—A. The privilege of buying bait there is something we can do away with entirely. We have been in the habit more or less of running our halibut vessels into Nova Scotia and taking bait, but they can just as well take their bait from here; that is a mere custom, and not a necessity.

HALIBUT.

Q. Where is the halibut fishing chiefly conducted?—A. In what we call the Western Banks and the Grand Banks. All the halibut are caught perhaps from 80 to 100 miles from any shore, and sometimes several hundred miles. It is deep-sea fishing, or, rather, it is on the Banks a long distance from shore.

CODFISH.

Q. Now we will come to the cod fishery. Where are the cod that you have operated in caught chiefly?—A. They are caught on Georges Banks; that is a fishery that Gloucester has practically a monopoly of; that is about 130 miles from our Cape here.

Q. How many miles is it to the Grand Banks?—A. To the western edge of the Grand Banks it is about 750 miles, I think, and to the eastern edge it is about 900.

PORT PRIVILEGES.

Q. Take your Canadian Banks, the Grand Banks, and all the Banks that are off those British Provinces, and that are a long way from here; what is the necessity for fishing vessels having any right to enter the ports of Newfoundland? Is there any necessity, and if so, what is it for your vessels on the Grand Banks to go to the nearest British port of Newfoundland, or wherever, otherwise than in case of storm or disaster, or to get wood and water?—A. Our Grand Banks fishermen during the last ten years have made a number of trips to Newfoundland for bait only, small herring or something of the kind, and it has been a disputed question for us whether it has not been an expensive business for us. It takes a great deal of time, and it causes a delay sometimes of three weeks, and sometimes they don't get bait; and they spend longer time than they need to sometimes, and we don't see that they get any more fish than those vessels that lie on the Bank and fish with other bait. So that we had about come to the conclusion before the expiration of this treaty that it was much better for our vessels to avoid going in for fresh bait. We think there is no necessity for it whatever.

BAIT.

Q. Do you get any squid on the Grand Banks?—A. Yes, sir; but certain times the squid fail. A vessel arrived here a few days ago that didn't take any bait with her when she sailed from here, but she caught her squid there and caught her fish, and made a very short trip and a very good one; she made no delay at all.

Q. Is it usual for your vessels to go out without any bait at all?—A. No, but this vessel relied on squid and found plenty of them.

Q. She took that chance?—A. Yes, sir. The bait question would settle itself very quickly. We could very soon find a way to bait our vessels without any Canadian help whatever.

DUTY.

Q. Was there any rise in prices when the duty went on on the 1st of July, 1835, as a consequence of the expiration of the treaty?—A. There was a decline immediately, and has been a gradual decline from that time to the present. The price of fish is so low now that if we should allow Canadian fish to come in free, our vessels would not sail. The price is very low.

Q. We must hope that this is exceptional. What we want to get at is a broader period of time so as to calculate the average.—A. There has been a very low price, for codfish especially, ever since the abrogation of the treaty, extremely low. Mackerel are very high this year, but that is easily accounted for. The catch of mackerel to date is 56,000 barrels against, I think it was, 230,000 barrels last year and 330,000 barrels the year previous. So that accounts for the prices of mackerel.

COST OF VESSELS AND OUTFIT.

Q. How many vessels are you connected with in one way and another?—A. We only own ten. Of course, we handle the fish of a great many others; we buy a great many fish.

Q. Take those vessels that you own to begin with, what is their cost? The WITNESS. What would be their cost to-day?

Senator EDMUNDS. No; I mean the cost of building them and fitting them out.

A. The vessels would cost about \$7,500 to \$8,000, and it would cost about \$2,500 more to fit them.

Q. They are about 75-ton vessels on an average?—A. About that, yes.

CREWS, AND THEIR NATIONALITY.

Q. What is the composition of their crews, and about how many men to a vessel?—A. They will average fourteen.

Q. What is the nationality of the crews?—A. Of course, I have no statistics.

Q. I mean your general idea; you see the men more or less.—A. I should think they were about one-half native born, and about one-fourth naturalized.

Q. And the other one-fourth foreigners of one sort and another?—A. Yes, sir.

Q. Of what nationality are the foreigners mostly?—A. We have quite a large number of Scandinavians; then we have quite a proportion from the Dominion, all along from Newfoundland up; and there are a few, not so many, Portuguese who come to the Georges fisheries. The south of Europe furnishes them.

Q. The Scandinavians have their homes here?—A. Yes, sir. The Dominion people also have homes here; it is the younger and more adventurous of them who come here, because they can have the handling of their own money and have a good time, but part of the time they go back home in the winter. It is only a question of a very few years be-

fore they are permanent citizens here. Of course no man can go as master until he is naturalized, so that is a constant incentive to them to become naturalized. And taking those that are masters, with those who want to become masters and have been masters, it makes a very large number of American citizens.

Q. Like candidates for office?—A. Yes, sir. So that a large proportion become naturalized citizens in a short time.

COMPENSATION OF CANADIAN FISHERMEN.

Q. Do you know how the business is conducted in the Dominion between the fishermen and the people who employ them?—A. I know in a general way. The bankers especially come in and land their fish; the fish are not weighed as they are taken out and cured; the men keep fishing the whole season, and their families keep drawing from the stores. So that before those fish are marketed and the voyage is ready to be settled the men are ready to start again, and by that time the store account has used up pretty much everything the men have earned.

Q. So that in substance they get store pay only?—A. Yes, sir. I suppose they get money enough to pay for what they actually have to have in the way of fuel and a few things like that, but practically they take the whole of it from the store. Here the codfish are landed and weighed in two hours from the time they are landed, and immediately every man goes in and takes his check.

COMPENSATION OF AMERICAN FISHERMEN.

Q. And about what do your crews make per year, taking a ten years' average?—A. The different kinds of fish share a little differently, but I should think it might make an average of \$300 for the twelve months.

EXPORTATION OF FISH TO CANADA.

By Senator SAULSBURY:

Q. Where do you sell your fish principally, in this market?—A. No, sir. We buy largely outside. Our shipping business is a prominent feature of our trade.

Q. Do you sell to other countries?—A. No, sir; we market in the United States.

Q. Do you ship none to Canada?—A. We never ship any to Canada. There is a little trade with the border towns, but it is very small, and we have never done any of it.

COMPARATIVE COST OF AMERICAN AND CANADIAN VESSELS.

By Senator EDMUNDS:

Q. You have been in this business so long I would like for you to state a little more in detail the elements of the cost of Canadian outfits, wages, the profit to be made out of it by the Canadian fishermen, the cost of vessels, wages, supplies, taxes, &c., as compared with the like elements on our side. Make, in as condensed a way as you can, a comparative statement of the conditions that enter into that part of the problem.—A. Of course the first item is the cost of the vessel itself, which is about one-third less in Canada than here. Then there is a very large proportion of everything that we put on board the vessel that is dutiable. We did have a drawback on our salt. Of course

in a series of years the duty makes a large difference in the expense of running the business. Then their system with their men makes a great difference.

Q. Take the articles that enter into ship-building, your cordage or manilla; is that rope made in this country?—A. Yes, sir; it is manufactured here, but the raw material is imported with quite a large duty.

Senator EDMUNDS. If it is real manilla hemp it must be.

The WITNESS. We use the very best manilla.

Q. The iron, bolts, and all that sort of thing are made here?—A. Yes, sir.

DUTY.

Q. When you speak of duties you assume that the price is increased on account of there being a duty on iron and iron manufactures?—A. Yes, sir.

Q. But if the manufacture of iron in this country had reached a point where the market was fully supplied, or oversupplied, as it is with cod-fish, then why would not the duty drop out of consideration with reference to fish?—A. It would. It is only a question whether we have to pay more. The theory of the thing I don't care for.

Q. If you were to-day about to fit out a ship, and sent to Liverpool or London to buy your cordage, and there was no duty on it, how much less could you get it for than you can now?—A. I really couldn't tell you the difference. I know about what the duty is, and we simply claim that if the average duty on what we use is to be taken, we feel that we ought to be classed with the rest in a general way.

Q. That I agree to entirely, but I am getting at the statistical fact of the prices. Now take the bolts, spikes, anchors, and everything that enters into the iron-work of a vessel, do you know whether the same sort of things and of the same quality could be bought any cheaper in London than they can in New York or Philadelphia?—A. There are some things I don't know and some I do. For instance, I know a few years ago we bought our fish-hooks—not a very large item in amount—from Scotland. I think the duty was then about 45 per cent. ad valorem, and yet the Scotchmen shipped them over to us and they cost us duty paid less than the price we could buy them for here. But in the articles you mention, a good many of them, I am not able to say whether the duty makes much difference in the price or not.

Q. We make fish hooks, do we not?—A. We made them then, but now we have stopped the importation.

Q. Now you can go on with what you were saying about the other items of comparison.

ELEMENTS OF INCREASED COST OF AMERICAN VESSELS.

A. The difference between our methods and theirs I think makes more difference in the cost than the duties. If we had the privilege of taking our crews and letting them live from our outfitting stores for six months of the year until the account was about to be squared, selling goods to them at our own prices, and all that sort of thing, we could carry on that sort of business and let the vessels lose and still have a profit on our whole business.

Then again the local taxes. Here in Gloucester we have a very heavy tax, about 2 per cent.; whereas I think I am correct in saying that the Canadians do not tax their vessels at all.

I think since the duty went into effect the total amount of their bounties is in the vicinity of \$2,000,000. The bounty is not very large per vessel, but still in the aggregate \$2,000,000 in a series of years is a great help to a small industry. France gives 10 francs on every quintal exported.

TAXES.

Q. The taxes paid here go to support schools and all the departments of a well-ordered city—water, police, &c.—which the families of your crews who live here enjoy?—A. Yes, sir.

Q. And your school money is entirely raised on property?—A. Entirely. It makes it very expensive, because in a town like Gloucester, with a large population who pay no taxes and who have a large number of children, the school tax is high and becomes a very important matter.

Q. And that in the Provinces is not a heavy tax at all?—A. I think they do not tax their vessels there at all.

By Senator SAULSBURY:

Q. You say your taxes are 2 per cent. on the cost of the vessel?—A. Yes, sir; more than that now. I don't think our fleet would sell to-day for what they tax it; I know it wouldn't.

By Senator EDMUNDS:

Q. That is, for the assessed value?—A. For the assessed value.

Senator SAULSBURY. In my State a vessel is not taxed at all for State, county, or municipal purposes. Why cannot the people of Gloucester be relieved from it as well as the people of Delaware? I know one gentleman who holds as part owner between thirty and forty vessels and has several hundred thousand dollars invested in coasting vessels, and he pays no State or county taxes upon those vessels.

Senator EDMUNDS. If the taxes are taken off of vessels here, the other people who live in this town and subsist upon this fishing industry will have to raise just as much money, and the taxes would only have to be levied on something else.

Senator SAULSBURY. I think property of every character and description, investments in real estate, vessels, or bonds and mortgages, ought to be taxed.

The WITNESS. The valuation of the town is low. Gloucester is a poor town, and the proportion of vessel property is of course exceedingly large as compared with the other property. If they should not tax vessels no one could afford to live in the town, the taxes would be so exorbitant on everything else. The tax is now \$19 on \$1,000. I think, and if they were to take out the \$3,000,000 of vessel property it would make a very exorbitant tax on everything else.

Q. (By Senator EDMUNDS.) I suppose these captains and their crews live in houses that they own, on land that they own, and all the taxes taken off of personal property would fall back on real property, so that after all they would have to pay the taxes?—A. Yes, sir.

Q. About what proportion of your local taxation is for school purposes?—A. I think about one-third.

TESTIMONY OF WILLIAM H. JORDAN.

GLOUCESTER, MASS., *October 5, 1886.*

WILLIAM H. JORDAN sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Forty.

Q. Residence?—A. Gloucester.

Q. Occupation?—A. Fishing and vessel-owner.

Q. Owner of how many vessels?—A. Five.

Q. How long have you been in the fishing business?—A. I have been in the business, as partner, nineteen years.

Q. Do you deal and operate in all classes of fish?—A. Yes, sir.

COST OF FISHING VESSELS.

Q. What do these fishing vessels cost?—A. They average in cost about \$7,300 to \$8,300 or \$8,500.

By Senator FRYE:

Q. That is about a hundred ton vessel?—A. That is 100 tons, old measurement. By the new measurement—the Government measurement—they run from 65 to 95 and 100 tons, but more of them would be in the vicinity of 80 tons; that would be about the average.

COST OF OUTFIT.

By Senator EDMUNDS:

Q. About what is the average cost of outfit?—A. For seining business perhaps about \$2,500, and for cod-fishing and other parts of the business from \$1,500 to \$1,800 and \$2,000.

Q. About how many men are carried on those vessels?—A. My vessels average about 15 men each.

NATIONALITY OF FISHERMEN.

Q. Of what nationality are these men?—A. I should think two-thirds of them or in that vicinity are American citizens, and perhaps 15 per cent. of them are resident citizens.

Q. People who reside here but are not naturalized?—A. Yes, sir.

Q. And the rest are floating?—A. Yes, sir; foreigners.

CODFISH AND BAIT.

Q. Where do your vessels go for codfish?—A. They fish mostly the Grand Banks and the Georges Banks.

Q. Where do they get their bait?—A. They get their bait for Georges fishing along the American coast, and this year all of them have got it late.

Q. How was it during the ten years of the treaty of 1870-'71?—A. A small proportion of the Grand Banks trawlers got it from Canadian ports.

Q. Is there any difficulty in American vessels, now that they are excluded in fact, whether of right or not, from going into provincial ports to get bait, supplying themselves with bait otherwise?—A. No, sir. I

have had less delay this year than on the average. Frequently the Grand Banks vessels are supplied with bait three to six weeks at a time.

Q. Along the Canadian shores when they were at liberty to do that?
A. Yes, sir. I think if the vessels made arrangements to take the bait on their own shores it would benefit an industry that has not been fully developed.

Q. And result in equally successful catches of fish?—A. Yes, sir, and with much less delay. Then, again, the people fishing along our shores, those that have traps and weirs, are disposed to do all they can to make money; but among the Canadians a vessel will be allowed to lie a week without bait. The Canadians seem indifferent, and if they don't feel like fishing they won't.

PROVISIONS.

Q. Just tell us what is your outfit of provisions for a vessel going to the Grand Banks on a codfish trip, for instance. What is put on board for the food of the crew?—A. Flour, beef, pork, lard, butter, sugar, molasses, and canned goods of various kinds.

Q. Canned vegetables you mean?—A. Canned vegetables somewhat. Of course, different vessels vary in that respect to some extent; some carry prunes, most of them dried apples and condensed milk; in fact, almost all kinds of food one would have at home, only in preserved form. They also carry cabbages.

Q. What is the quality of the food that is put on?—A. The quality is good; the quality of the flour is the best; as to sugar, we sometimes send white sugar, but more frequently high grade yellow. The molasses is of good quality, not the best always; and butter is of good quality.

Q. Pork?—A. Pork is of the best quality; we send mostly clear pork, and pork shoulders; and the very best grade of plate beef we can buy; we also send pigs' feet and tripe somewhat.

Q. So that the whole outfit of food is thoroughly good?—A. Yes, sir.

By Senator FRYE:

Q. Coffee and tea?—A. Yes, sir; pure coffee, and a nice quality of tea that sells for about 40 to 45 cents a pound. Strictly pure coffee and extracts and spices of all kinds.

CODFISH.

Q. In your codfish catching I suppose no question is ever raised in respect to the three-mile line?—A. No, sir.

Q. They are always caught offshore?—A. Yes, sir.

PORT PRIVILEGES.

Q. Then as to your cod-fishing vessels, is it of any practical consequence to you gentlemen engaged in this business, or to your crews, to have the right to go into their ports except for shelter and for wood and water?—A. It is not.

MACKEREL.

Q. Now we will come to the mackerel business. Where have your vessels during the last ten or fifteen years caught their mackerel?—A. During the last ten or fifteen years they have caught their mackerel almost entirely upon the American shores. Last year I had 5 to 8 or possibly

10 per cent. taken in Canadian waters outside the three-mile limit, and last year mackerel were taken in the Canadian waters, inside the three-mile limit.

THREE-MILE LIMIT.

Q. State your knowledge and information as to the proportion of mackerel taken inside the three-mile line?

The WITNESS. In ordinary years?

Senator FRYE. Yes, take it for fifteen years together.

A. The proportion, in my estimation, would certainly not be over 5 per cent. with the large vessels, and I should think even less than that.

Q. Take the whole of the Gloucester mackerel fleet, and take it for ten or fifteen years together.—A. The average taken inside the three-mile limit is not 5 per cent. of the whole, taking the whole American fleet.

Q. It was so even during the time when they had the right to go inshore?—A. Yes, sir. It is very seldom that they are able to get the condition of bottom such that they can fish inside with safety. It has been tried, and they almost invariably tear their seines.

Q. How is it in respect to the location of the larger schools of fish; are they generally found more than three miles offshore?—A. Yes, sir; there are certain banks or places where they are located where they seem to meet more of them than they do inshore.

CASE OF THE GOLDEN HIND.

Q. Have any of your mackerel vessels been disturbed this year?—A.

Yes, sir. The Golden Hind was fishing in the North Bay and discovered that their water was about out. They had less than a barrel left, and they attempted to go in to replenish their water. At the entrance to the Bay of Chaleur they were met by one of the Canadian cutters—I think the one commanded by Captain Quigley, I am not sure—and the cutter forbade him to enter the Bay. The Hind informed the cutter that she wished to get water, but Captain Quigley said that he would not allow her to enter, and gave the Hind the written instructions of the Canadian Government, and indorsed on them, "Don't enter the Bay of Chaleur." He didn't sign his name, but only added his initials.*

So the captain didn't dare enter. He was in distress for water for eight days before he got back on the fishing grounds, and during that time the other vessels had started for home, so that it was a substantial loss to the Hind of one fare of fish.

Q. Where is that paper that was given you?—A. I have it at my office.

Senator FRYE. I wish you would bring it in before we leave Gloucester.

The WITNESS. I will do so. I will state that the collector of the port here made a statement of this case to Secretary Bayard, and made a demand on the English Government for indemnity.

Q. About what time did this occur?—A. I think nearly about the first of August.

Q. Do you know whereabouts it was that the vessel was stopped?—

A. I have a record of where it was, but don't recall it now; it was at the entrance to the Bay of Chaleur.

* The warning here spoken of is identically the same as the one a copy of which Senator Edmunds has from Mr. Bayard, except the indorsement in pencil, "Don't enter the Bay of Chaleur. M. S."



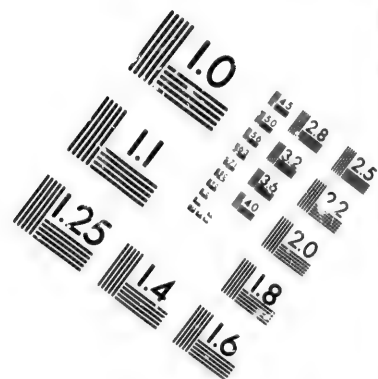
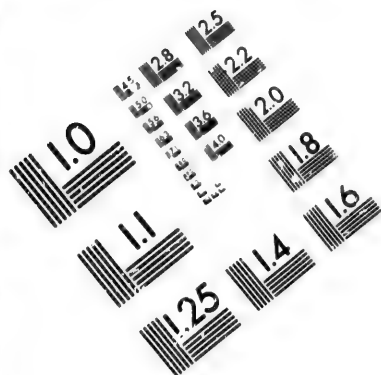
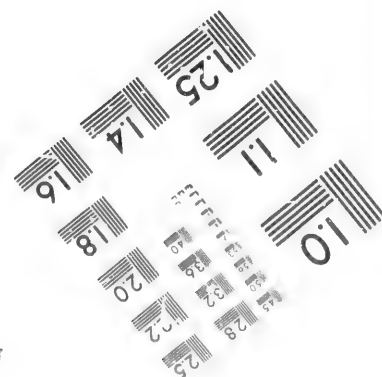
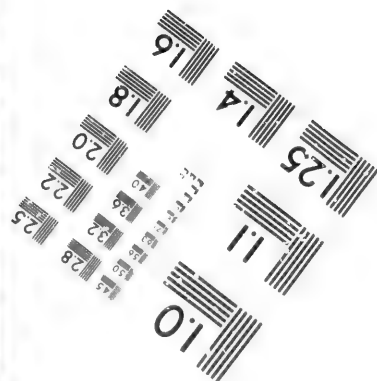
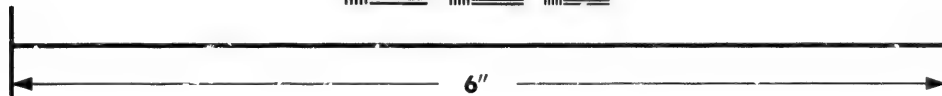
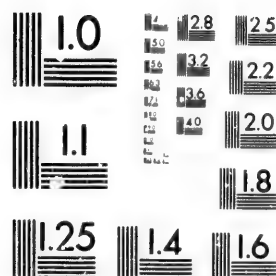


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Q. Do you know whether at that time the Hind was within three miles of the shore?—A. She was outside the three miles.

Q. Standing in to the open bay?—A. Yes, sir.

Q. How wide is that bay across from headland to headland?—A. I don't know. [A bystander said it was about 15 miles.]

Senator EDMUNDS. I have understood that it was nearer 20.

THE CASE OF THE ANNA M. JORDAN.

The WITNESS. There was another vessel that had some difficulty.

Q. (By Senator FRYE.) What vessel?—A. The schooner Anna M. Jordan. I think she went first to Eastport, and then attempted to go to Grand Manan, but they wouldn't allow her to enter at the port of St. Andrews. The captain owns part of the vessel, and he went ashore and asked permission to enter. They told him no; that fishermen had no business to enter, and if he came in he would be seized.

Q. That was at the custom-house at St. Andrews?—A. Yes, sir.

Q. And so he did not undertake it?—A. He did not undertake it.

Q. Are those the only vessels of yours that have had any trouble this year?—A. I think so.

THREE-MILE LIMIT.

Q. Take the mackerel fishery; what, if any, substantial value to the American fishing interest do you regard the right to catch mackerel within 3 miles of the Canadian shores?—A. I consider it of no value.

Q. And I understand from what you have said that your opinion is, from your knowledge and experience, that it has never been of any substantial value as a means of catching fish?—A. Yes, sir; for some years past I have had my vessels going up for mackerel, and until this year they have always lost by going there; if they had remained home and fished as late as this year, if there had been any chance, they would have done much better.

THE TERROR.

Q. Have you any information as to whether any other American vessels have been excluded from the Bay of Chaleur this year?—A. I don't recall any special case. I have heard the matter spoken of in general once or twice.

Q. Do you understand that all have been kept out?—A. I understand that when the cutter Terror has been there it has not allowed any vessel to enter.

Q. What papers had your vessel?—A. She had a permit to torch and trade; all my vessels had that.

Q. But she had no particular clearance for any particular Canadian port?—A. No, sir.

WHOLESALE AND RETAIL PRICES.

Q. How are the prices of fish this year?—A. The prices of codfish are lower than they have been for many years; the prices of mackerel are higher for certain grades. The catch of No. 1 mackerel this year has been smaller than it was last year. The catch has been probably in the vicinity of 12,000 barrels No. 1's, and last year it was 20,000 barrels. The price last year at this season was \$18, and this year it is

\$17 and \$17.25, with perhaps only two-thirds of the catch, and of course with very much smaller proportion of other grades in mackerel. No. 1 mackerel have been less this year with a smaller catch.

Q. Take it for codfish.—A. The prices of codfish, both wholesale and retail, have been very much less this year than last.

PRICES AFFECTED BY DUTY.

Q. Was there any observable immediate change in the prices on the 1st of July, 1885, when the duty was put on?—A. Prices were lower after that; the market seemed to be dull.

Q. But your market here, so far as you know, was not affected immediately by that fact?—A. No sir; we would have been very glad to take the old prices.

COMPENSATION OF FISHERMEN.

Q. I suppose your vessels are all alike here, on the same lay that has been described by the other witnesses?—A. Yes sir; I have only one vessel where part of the men were hired for wages.

CLOSE SEASON.

By Senator EDMUNDS:

Q. You can state what you like on the question of a close season.—

A. It is the general impression, I suppose, that it is more desirable for the fishermen to have a close season than not to have it. But if it is for their interest, it is certainly for mine. I have looked into the question pretty carefully—perhaps no more so than masters of vessels—and it is my impression that it is not going to be for our advantage.

In the first place, our vessels perhaps will want to start earlier than the 1st of June, and I know of no reason why they cannot if they wish. If they start before the 1st of June they are liable to catch mackerel. Suppose those mackerel are landed on the 15th of June; how is any one going to prove that they were caught before the 1st of June? Suppose Gloucester will send out 100 vessels mackerel fishing. That is perhaps what they have sent South nearly every year for the past seven or eight years, and it may be more than that. They have taken almost entirely fresh mackerel, so that there has been no opportunity for accumulation of stock more than a few days at a time. I would say that up to the 1st of June, possibly, there are 5,000 barrels landed each year, and have been for the past few years; I think not so many this past year.

Q. Are you speaking now of salt, or fresh mackerel?—A. Of salt mackerel. Where they get fresh fish, of course they take that chance of getting a big fare with some one or two or three trips. On the whole, the Southern fishing business has been disastrous, and I think I have been engaged in it as much as any firm. I have had four or five vessels engaged in it, and they probably have been as fortunate as any; and I do not consider that the voyage South has been especially favorable. On the contrary, there has been this disadvantage: I think the mackerel are liable to be salted and taken on or before the first day of June. If a vessel should happen to be in Southern water about the 1st of May, so as to be prepared to take them on the 1st of June, if they saw a school on the 25th of May they would be liable to take them if they thought nobody saw them. The result will be that by the 15th of

June usually, perhaps, we should have 5,000 barrels of mackerel landed, and probably a large portion of them consumed. We are quite likely to have by the 15th of June 20,000 or 30,000 barrels of poor mackerel; they are of very little value. It is only a small portion of the country that takes them, any way, and we should accumulate a stock.

I understand the object of a close season is to prevent taking the mackerel in the spawning season; but they do not spawn until after the 1st of June.

The object is also, as I understand, to keep a poor quality of mackerel out of the market. Very few mackerel, I think, are taken during the month of June, because they are spawning.

Q. Where do they begin to spawn South? You find them off Hatteras in March?—A. I don't know where they spawn. You find spawn in them. I believe the fishermen don't pretend to know.

Q. Your difficulty about the close season, if I understand you correctly, is that you look at the difficulty of its enforcement, and that instead of these fish that are caught before that time being disposed of, they will be packed in barrels in part?—A. I am afraid it will be that way, and certainly it will be impossible to tell, if the mackerel were landed about the 15th of June, that they were caught about the 25th of May. And then I don't see anything to prevent the danger of shipment from all over the Provinces about the 15th of June. The mackerel strike their shores from the 15th of May, and they can catch those fish at that time and salt them and keep them until the middle of June and keep them from our markets; whereas, if we are kept to the strict letter of the law, we won't be able to take many fish until after the 1st of July, and the Canadians will be able to get the advantage of the bare market.

Q. If the close season were on down here, you could go north and fish where the Canadians do—in the Gulf?—A. We might do that, I suppose. But the fish seem to follow the shore, and more and more fish are taken in traps and weirs on the Nova Scotia shores than are taken outside.

Q. So you think that this early fishing would not amount to anything up there outside of the three-mile limits?—A. No, sir.

Q. And that at that early time in the year it is the boats, &c., that take them?—A. Yes, sir. Our vessels have been there every year. A few vessels leave the southern fisheries about the 15th or 20th of May and go north, hoping to take fish on their passage to the North Bay; but there are many more failures than there are successful voyages. Last year I think there were thirty to forty vessels went there, and I guess not more than seven or eight caught trips.

MACKEREL AT SPAWNING TIME.

By Senator FRYE:

Q. These mackerel are carrying spawn nearly all the time from March up to June, are they not?—A. I don't know how early, but I presume they are.

Q. When they are actually spawning they do not make their appearance on the surface, but go deep?—A. I don't know that, but I presume that is the case.

Q. That is the reason you do not take them in the month of June with your nets—because they are on the bottom?—A. I presume so.

Q. While these fish are carrying spawn do you think they are good to eat?—A. No, sir; I think they are not good eating.

Q. They are very poor, are they not?—A. Yes, sir.

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Q. And small?—A. Yes, sir.

Q. After they have spawned in June they very rapidly recover their condition, do they not?—A. Yes, sir.

Q. They feed on a little red insect?—A. That is their natural food.

Q. What is that called?—A. I have heard it called brit; it is also called red feed.

Q. So that in July the mackerel get fat?—A. Yes, sir.

CLOSE SEASON.

If you will allow me, I think there is no doubt but if we could prevent their being taken before the 1st or 10th of July it would be a good idea.

Q. They can be prevented from taking them during the month of June?—A. Yes, sir; but then the Canadians would get them, and in that way get the advantage of a bare market. You can't prevent this, I suppose, under the present tariff. Next year, perhaps, the first mackerel landed will be high priced.

Q. The theory of these other fishermen is all right, then, that the mackerel are poor and ought not to be taken, but that the law is liable to be violated?—A. Yes, sir.

EARLY CATCH OF MACKEREL.

By Senator SAULSBURY:

Q. Where are these fish that are caught in the Southern fisheries principally sold?—A. I suppose there is a small local trade in New York State and Pennsylvania, but I suppose their eventual destination is in some Southern market. The Southern markets demand a low-priced fish, which is necessarily a poor fish. Poor fish will keep better in a warm climate than fine fish. A poor No. 3 mackerel is a much better article for a warm climate than a good No. 1; they do not spoil so readily.

By Senator EDMUNDS:

Q. Can you not keep any mackerel that are properly salted a great while in any climate?—A. They don't keep so well.

Q. They get musty and rusty?—A. Yes, sir; the fat dries up, and they get oily and strong; they are sort of soaked in oil.

By Senator SAULSBURY:

Q. Is there not a large quantity of these fresh fish eaten by, especially the poorer classes of people in New York, Philadelphia, and other Eastern places?—A. Yes, sir; they are a great many. They are very cheap at times; the market is overstocked with them and they sell at a very low price, but are usually a pretty good kind of fish for fresh fish, that is, when there is a large supply. When they are so cheap the poor ones are thrown away, and the others are sold at a pretty good rate.

Q. Would not the effect, therefore, of breaking up this southern fishery be to deprive a large number of people, who now want to buy cheap fresh fish, of the opportunity to buy them?—A. I think it would deprive them of the opportunity to buy mackerel. I don't know but at that season of the year there is usually a large stock of fresh fish cheap—fresh herring and smelts, though of course smelts are not quite so cheap. And at different times there is most always an abundance of fresh fish.

TESTIMONY OF CHARLES H. PEW.

GLOUCESTER, MASS., *October 5, 1886.*

CHARLES H. PEW sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Fifty-one.

Q. You reside here at Gloucester?—A. Yes, sir.

Q. What is your occupation?—A. In the general fishing business; buying and selling goods.

Q. You are a vessel-owner?—A. Yes, sir; we have, I think, from 18 to 20 vessels.

Q. How long have you been in the fishing business?—A. Ever since 1849.

RECIPROCITY.

Q. Then you were in the business during the whole period of reciprocity under the treaty of 1854, and free fishery business under the treaty of 1870-'71?—A. Yes, sir.

Q. What was the effect of the reciprocity treaty of 1854 upon the fishing interests here?—A. During the latter part of it, it interfered with it very much, depressed it.

Q. Describe how, whether the Canadian vessels increased in number.—A. The Canadian fleet increased. During the inflation period after the war prices were very high, but for the last two or three years the business was depressed. Our high prices caused a marked increase in the Nova Scotia fisheries; the fish were about all marketed to this country at that time.

Q. Did large quantities of them come to this port?—A. They commenced to increase very materially during the latter part of the reciprocity treaty; we had gone through the panic of 1857, and at that time the increase was not material from 1857 to 1861. During the first years of the war, 1860 and 1861, the business was very dull, but after prices began to look up and business became more prosperous the market increased, and finally for three or four years it doubled every year.

COMPARATIVE COST OF UNITED STATES AND CANADIAN VESSELS AND OUTFITS.

Q. What are the elements, in your opinion, of the difference between the cost of a vessel, its rigging, outfit, &c., built by these Dominion people, and a Gloucester vessel?—A. It is principally a difference in the cost of labor and duties, and will amount to probably from \$1,000 to \$1,500.

Q. On each vessel?—A. On each vessel. In addition, there is a material difference in the running of the vessel from year to year. They have no duties nor taxes, and their labor is lower; that makes the running of the vessel very much less.

COMPENSATION OF FISHERMEN.

Q. How soon do your fishermen who bring fish to this port in your vessels get their pay and profit out of a trip?—A. Just as soon as they land.

Q. How do you understand that course of business to be in the Provinces?—A. It takes a long while before the fishermen get their money. As a general thing the fish have to be landed and marketed and the money received before the men are paid off. Sometimes it happens that they land their fish in the fall and do not receive a settlement in money until they are again ready to go the following year. Then, again, many of them take their compensation from the stores of the vessel owners on a running account, so that when the settlement comes it is substantially no settlement; their pay is all used up.

BAIT.

Q. Where do your cod-fishermen get their bait?—A. The larger part of them from Newport, around Block Island, and down as far as Portsmouth, and also down the coast of Maine, but not much. The larger part of the bait comes from Cape Cod.

Q. How has it been during the last ten years?—A. It has been the same.

Q. Your vessels, then, during that time have had very little, if any, occasion to go into Canadian ports for bait?—A. No, sir; they have not made a practice of doing it; it hasn't been common with them, though occasionally a vessel would do so. I think this year we have had only one or two out of our fleet of twenty vessels that have had occasion to call into Canadian ports at all, and then I don't think they had any object; it merely became convenient, perhaps, for them to go in.

THE CASE OF THE SHILOH.

Q. Did any of your vessels meet with any difficulty?—A. Those that went in did. One of the vessels upon the last trip, I think, went into Shelburne, and was going into harbor to make port, and was fired at by one of the English cutters. It was a stormy night.

Q. What was the name of the vessel?—A. The Shiloh.

Q. What time was that?—A. About the last of July or first of August. I think she will be in to-day.

Q. With the same captain on board who was on board at that time?—A. Yes, sir.

Senator EDMUNDS. If he comes in I would like to have you send him here.

The WITNESS. I want you to have his story.

Senator EDMUNDS. You may state his story as you understand it.

The WITNESS. As I understand, he went in from the Banks in stress of weather. He went into the lower bay at Shelburne, the settlement being farther up the bay. While going up to his anchorage ground the first thing he knew a shot was fired. He saw the cutter, but she had nothing to distinguish her from any ordinary vessel—no flag. The cutter came up and her captain put an armed guard aboard, and that guard was kept there all the time he was there. He stopped in at Louisburg, on Cape Breton. He had a man on board who was sick, and he was a little in doubt whether it would be policy to carry him back or to land him. He went in and had considerable trouble. He had to get permission from the Canadian authorities to allow him in port with a sick man. He had to have special permission. They wouldn't allow him to go ashore or to do anything at all, and kept a guard right around him all the time. All our vessels had instructions this year not to go into any Canadian port, because we held that it was practically of no advantage to us or to them to go into their ports—no advantage from a pecuniary point of

view, because it always cost more than any benefit derived from it. I have a bill showing what it cost one of the vessels to go in, one of our fishing vessels, the schooner Ontario.

CANADIAN PORT CHARGES.

Senator EDMUNDS. This bill, it seems, is dated June, 1886, at St. John's, Newfoundland. It is rendered by Stephen March & Son against the vessel for what she had to pay when she went in, as well as for some things that they bought; I see that they bought some tobacco, &c. The light-dues were \$20.64 on 86 tons, at 24 cents a ton. There is a charge for water rates, 86 tons, at 5 cents a ton, \$4.30. That is not the price charged for going in to take water, but only the charge for going in. Harbor-master, \$2. Entering and clearing at the custom-house, \$1. Pilotage, inward and outward, \$7.50. Then after some little items I see 70 cents for tobacco and linseed oil and a little tea. There is also a charge for 12 flour-barrels, amounting to a little over \$6, and an advance to the captain. Then comes the commission on the whole thing at 5 per cent.; then a charge for exchange at 2 per cent., making a total, taking out the tobacco, the linseed oil, the tea, and flour-barrels, of \$6.60 and \$31.50. The aggregate was about \$45 or \$46 for merely going into that port, staying a day, and clearing out again.

The WITNESS. And pilotage, though they don't have to take any pilots. Then there is a charge for water rates, when we didn't take any water.

Q. I suppose she did not take any pilot?—A. No, sir; it was as if she had come in and anchored here at Gloucester; it is an open bay, just like it is here at Gloucester. So you see it is expensive business, and there is no earthly object in going into their ports. I talked to the captain of that vessel very hard about going in there.

GLOUCESTER PORT CHARGES.

Q. According to the course of business here and the practice of the Gloucester custom-house, what would be the charges on an 86-ton Canadian vessel that should come down here to fish more than three miles off-shore out here in the Atlantic Ocean, and had occasion to land in this harbor, cast anchor, and stay a day?—A. Simply for entering and reporting at the custom-house?

Q. How much would that be?—A. There would be no fee attached for them to report within twenty-four hours.

Q. So that if she merely cast anchor and departed within twenty-four hours there would be no fee at all?—A. None. We would be only too glad to have them come in to buy something. That bill I have shown you is a fair sample of the whole business of port charges against our vessels going into their ports. That is an original bill.

THREE-MILE LIMIT.

Q. For your codfish vessels do you regard the right of those vessels to go within three miles of the Canadian shores as of any consequence?—A. None whatever.

Q. Take your mackerel vessels; where, during the last fifteen years, for instance, have your mackerel been caught?—A. Off our American shores.

Q. Have you ever had any mackerel vessels going to the Bay?—A. Two, this year.

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Q. Never before?—A. I don't think we have had any for ten to twelve years.

Q. Have you any knowledge as to where the American fishermen catch their mackerel up there, and as to how much necessity there is for them to go within the three miles?—A. I have a general knowledge.

Q. State your general knowledge.—A. I think if they kept five miles offshore it would be an advantage to the business. If our Government would put a steamer down there and drive them all offshore there would be more fish caught. I don't look upon it as any advantage at all to go into their harbors; it is a positive disadvantage to the whole business.

Q. Have the mackerel vessels returned that you have sent down there?—One of them has returned and gone back again; they are both down there now.

Q. Have you heard of either of them having any trouble?—A. No, sir; not at this time.

Q. They were under instructions, I suppose, not to go inside.—A. Yes, sir; their instructions are to keep out of the harbor altogether; of course they have to go in sometimes on account of stress of weather.

NATIONALITY OF FISHERMEN.

Q. What proportion of your crews, on the average of a dozen years, are American citizens?—A. The larger part of them; nearly all. In fact I don't think one per cent. of our crews are foreigners. They are not all American-born, but people who make their homes in this country.

By Senator FRYE:

Q. Naturalized?—A. Naturalized citizens, and living here.

Q. What proportion of them are American-born, do you think?—A. Very few now; probably not more than 10 to 12 per cent.

COMPENSATION OF FISHERMEN.

By Senator EDMUNDS:

Q. State about the average number of men composing the crew of one of these vessels.—A. They average 15 to a vessel; that would be a fair average.

Q. And I suppose they go on the same lay as all the others have stated?—A. All of them go on shares.

FORTUNE BAY TROUBLES.

Q. Were you interested in any of the vessels that had difficulty in Fortune Bay, that old affair?—A. Yes, sir; it was our vessel, the Ontario; she was the one the gear of which the mob destroyed.

Q. She was in there at that time for bait, was she not?—A. She was under register, and went in there to buy herring for the market; perhaps the herring might be used as food; they went in to buy for general purposes. They usually go on winter voyages, winter after winter, but this year they thought they had the right to go down there, and so they took their seines and boats and hired men down there to fish for them. They were very successful, and they had herring enough, trapped or surrounded, to supply the whole fleet there, whilst the fleet there fishing with the old gear were not able to catch any, and that was the occasion of the mobbing and destruction of the property. There was no pretense of an excuse whatever; it was only because they said that our

vessels were coming down there and taking the bread out of their children's mouths. All the years under the treaty we had the privilege of going in there for herring, although we bought them; they wouldn't allow us to catch them; they wouldn't allow us anywhere, even at St. John's. We had a vessel that was nearly sunk, her cable was cut, and she intended to catch her bait; that was the Concord. They were told if they came ashore they would be murdered.

BAIT.

Q. If there was any advantage in going in there for bait, why did your vessels go in; or were they merely going to bring the herring back here to sell, or what?—A. It is a matter of convenience perhaps on a voyage, a matter of habit. A man has been out to sea two or three months and he gets sort of tired and likes to run in and get the news from home, and get the papers, and take water, bait, and ice and water, and go off again.

By Senator FRYE:

Q. As I understand, you had, at this time, the right to go in, under the terms of the treaty, to catch bait?—A. Yes, sir; but the experience we had will prevent us from attempting it again.

THREE-MILE LIMIT.

By Senator EDMUNDS:

Q. Taking your whole knowledge of the business, what do you say as to the value, to our mackerel fishermen, of the right to go within the three-mile limit to fish?—A. I don't think it is of any value at all; I think it is a damage to go in.

CANADIAN PORT CHARGES.

By Senator FRYE:

Q. Do you mean that those charges named in the bill you have exhibited to us are customary charges to the fishermen who run in there?—A. I never saw such a charge before this year; I think it was put on this year.

Q. During the time of the treaty they did not make those charges, did they?—A. No, sir.

Q. Do you know whether or not, under the laws, they have a right to make those charges?—A. No, I have no actual knowledge. I think it was said that this Mr. March named in that bill was a member of parliament there, and being a member of the legislature he had this privilege of making these charges, that being a special privilege.

Q. Do you know whether other vessels of ours have been compelled to pay such charges this year?—A. I don't know of any. I think but very few vessels have gone in there; I haven't heard of any others except ours.

FREE FISH.

Q. Do you know of anything that the Canadians can give us as an equivalent for allowing them a free market in this country for their fish?—A. Nothing.

Q. What would be, in your judgment, the effect on the market for the next twenty years if we were to give them that privilege?—A. It would transfer the headquarters of the fish business from our territory to theirs.

EFFECTS OF TREATIES.

Q. After the expiration of reciprocity what was the effect?—A. Their business decreased.

Q. During the pendency of the treaty of 1870-'71 did they make a heavy increase again?—A. Yes; from 1879 to 1882.

Q. Did they more than double their fleet?—A. Yes; doubled and trebled.

Q. What was the effect of that upon our fisheries?—A. It simply decreased our business very much and made it non-paying.

FRESH AND SALT FISH.

Q. Has the market for fresh fish increased immensely the last ten years?—A. Yes, it has increased from year to year.

Q. Has that had any effect on the salt-fish market?—A. It interferes with sales and prices.

Q. Under the decision of the present Secretary of the Treasury, fresh fish for immediate consumption are admitted free of duty?—A. Yes, sir.

Q. Suppose all fish, salt and fresh, should be admitted free of duty, and that the increase observed for the last five years in the Canadian exportations to this country should be maintained, would it, in your opinion, be destructive of our fishery fleets?—A. Totally destructive. The business couldn't be carried on; it would be, I think, impossible; it would be simply a natural consequence.

DUTIES AND BOUNTIES.

We pay taxes and duties upon everything we use. We have high labor, while they have no duties, low labor, and in addition to that a bounty is paid their fishermen out of the money that this Government was swindled out of. France pays a bounty of 10 francs per quintal exported to other countries. We have fish that we sell for \$1.50 and \$2.25, while the French Government pays nearly \$2 a quintal as a bounty for all the fish exported to other countries. A French fisherman got astray in a dory from his vessel, and was brought ashore in this vicinity, and the French Government sent a war vessel to bring him home. France can't spare even one man.

DUTIES IN FOREIGN COUNTRIES.

Q. Do you know whether or not all the countries to which we export fish have duties?—A. The whole of them have.

Q. They do not open their markets?—A. No; their duties are absolutely prohibitory. The duty is very large in Spain and Portugal, as well as in the West India Islands; we can't send any fish there, and never could.

WAGES OF WOMEN IN GLOUCESTER.

Q. You are one of the proprietors whose places we visited this morning?—A. Yes, sir.

Q. I saw a number of women and girls at work there; what average wages do they get?—A. They get \$6 a week.

WAGES OF MEN IN GLOUCESTER.

Q. I saw men at work there; what are their average wages?—A. They make about \$10 a week.

Q. Do any of them get more than that?—A. Some get \$13 and \$14, and some get \$8.

PRICES OF AMERICAN AND CANADIAN LABOR.

Q. When you land a cargo of fish and put it through the processes that we observed this morning, is there any labor connected with it for which you have to pay less than a dollar a day?—A. None whatever.

Q. It runs from that up to \$2?—A. Yes, sir.

Q. Do you know at what cost that same kind of labor is performed by the Canadian fishermen in their country?—A. About one-half. They do not follow the same methods of curing and marketing fish that we do, though they do follow them as fast as they learn them. All their methods of catching, curing, and marketing are learned from this country. Their best masters have gone in our vessels and got their education as fishermen, and then during this last reciprocity treaty they went home and went as masters of vessels. Previous to that we used to have four or five skippers that belonged to Yarmouth and Shelburne, but they are all vessel-owners now down there. They copy our vessels and gearing and boats, and in fact everything that is progressive in their whole fishing business they have learned from us here.

AMERICAN AND CANADIAN VESSELS.

Q. You spoke about the increased cost of our vessels over theirs on account of the increased cost of labor and the duties on certain materials. Is it not a fact that the American vessels cost a good deal more because they are better built vessels?—A. Yes, sir.

Q. And built of harder wood?—A. Yes, sir; we use oak timber in the construction of our vessels, where they largely use spruce.

Senator EDMUNDS. The wages of shipwrights are higher with us.

The WITNESS. They average \$2 a day upon most all American vessels, while with them the shipwrights only get from \$1.25 to \$1.50.

PRICES OF FISH.

Senator FRYE. The average prices of fish of various grades during a series of years, if made up in tabular form, it seems to me might show that food is about as cheap as it is possible to be.

Senator EDMUNDS. Mr. Pew could give us a table covering a dozen years or so.

The WITNESS. I can do it. I have a knowledge of the prices, and know that codfish of all kinds are cheaper this year than they ever have been before with the exception perhaps of one or two periods, say during the panic of 1857, and from 1860 to 1861, at the commencement of the war. When the duties went on a year ago last July the prices of mackerel, although they were \$2 a barrel, went steadily down from \$2 in June to \$2.75 along about the first of August. And codfish just the same; they were \$3.25 to \$3.50 a quintal of 112 pounds, and they went right down in price notwithstanding the addition of the duty, and they are lower to-day than they have ever been in the history of the country. It is simply a question of supply and demand; there is an over

supply of codfish. We have enterprise and men enough to supply our own country with food products at very cheap prices.

By Senator EDMUNDS:

Q. What might be called the height of the fishing business here?—
A. I should say September to October; September ordinarily.

Q. Then will you furnish us a table showing the wholesale prices of these various kinds of fish, all that you call by the general name of codfish, mackerel, halibut, and herring, in the month of September, taking the same date all around, so as to make an even comparison for 10 to 15 years back, and send it to us at your convenience?—A. I will.

HERRING.

To give you an illustration in regard to the duties on herring, Labrador herring are imported here, and last year they were sold as low as the duties on them. The duties were \$2 a barrel, and they were sold at \$2 a barrel. They had a most successful catch of them.

Q. On what part of the coast of Labrador are these herring taken?—
A. South and east, opposite Newfoundland. The prices this year are from \$5 to \$6.

Q. What part of them are taken on the Labrador coast where we are still entitled to fish?—A. I don't know.

By Senator FRYE:

Q. We do not fish for them?—A. No, sir.

Q. What do those largest, handsomest herring, that we saw this morning, sell for now?—A. All prepared and put up and salted for market, about \$3 a barrel.

Q. About how many pounds?—A. Two hundred pounds always in a barrel.

CODFISH.

Q. What do these smaller codfish sell for now per quintal?—A. For \$2 to \$2.25 per 112 pounds.

Q. They are rice fish?—A. Yes, sir; they are just as nice fish as are produced.

Q. What do the larger ones sell for?—A. At \$3.50 per quintal.

Q. What do your boned fish sell for?—A. From 3½ to 5 cents a pound.

HERRING.

By Senator EDMUNDS:

Q. Referring to Labrador herring, the treaty of 1818 provides for our right to fish from the west and southwest along to the Straits of Belleisle indefinitely northward; were any of those herring caught in the Straits of Belleisle?—A. I think they were.

TREATY WITH DENMARK.

The WITNESS. Did Mr. Jordan speak to you about the discovery this year of a treaty with Denmark?

Senator EDMUNDS. No.

The WITNESS. Something has come out this year in reference to a treaty with Denmark which provides that we cannot navigate the water north of 60°, I think it is, and a war vessel destroyed his property this

year and drove her home. She goes up on the coast of Greenland, and her voyage was broken up by a Danish man-of-war, I think. I think it was stated—of course this knowledge is general—that a treaty existed between this country and Denmark, by which our vessels had no right to go up there at all. At any rate, the vessel landed her fish on shore, they were destroyed by the man-of-war, and she was driven home.

Q. You do not mean that any Danish vessel undertook to prevent one of our vessels from fishing north of 60°?—A. I think so; I think she was driven home.

Q. It might be one thing for her to fish in the open sea north of 60° and another thing to go within the three-mile line.—A. I think they only went ashore simply to have less obstruction for the vessel when they went to clear the decks and such things, as they had always been in the habit of doing.

NEW ENGLAND FISHING INTERESTS.

By Senator SAULSBURY:

Q. About what proportion of the fishing interest of New England is centered at Gloucester?—A. I think from a fourth to a third; I guess one-third would come nearer to it.

[A by-stander stated that there were 1,600 fishing vessels in all, and 440 of them belonged to Gloucester.]

Q. To what do you attribute the decline of cod-fishing this season?—A. It is owing to the quantity of the catch. The modern appliances for catching fish improve from year to year; they use larger vessels, send larger crews, and consequently we catch more fish.

IMPORTATIONS OF FISH FROM CANADA.

Q. What proportion of the codfish brought to our markets are caught in provincial waters by provincial people?—A. I guess they brought none, or at any rate only a small percentage, this year. Since the treaty went out of operation they have brought very few.

Q. Then you do not attribute the decline in the prices of codfish to the importations from the Canadian Provinces?—A. No, sir; it is simply due to the laws of supply and demand. Of course people thought that with the expiration of this treaty, prices might improve, and so they caught a great many fish, and do now.

Q. I understand you to say that the price of mackerel has advanced this year?—A. Yes, for certain kinds.

Q. Is that attributable to the same cause, there not being a supply?—A. Yes, sir; an insufficient supply.

LOCAL TAXATION OF VESSELS.

Q. You spoke of the cost of our vessels as compared with Canadian vessels, the materials entering into construction having, some of them, to pay duty, and the cost of labor also being greater.—A. All the timber that goes into American vessels except ship timber has to pay duties.

Q. Is not one of our disadvantages local taxation?—A. You might take that view of it. You might take it as a disadvantage or as an advantage. It would open up a pretty wide field for discussion.

Q. Can you compete with Canadians, who do not pay any local tax on their vessels?—A. No, sir.

AMERICAN

Q. Have you ever seen fishing business in the statistics gotten up by the State?—A. It has been \$50,000 people.

INFORMATION

Q. Have any of the vessels on the part of these vessels?—A. I think they have been at Gloucester ever since, although they are not as many as they were before the war.

Q. There were in the State of any consequence?

By Senator Edmunds:

Q. Except the Fortunate, were some little things?

NUMBER

Q. How many vessels in the northeastern waters?

The WITNESS. WITNESS. Senator EDMUNDS.

Q. They don't go to the coast of Newfoundland?

A. They don't go to Nova Scotia waters at all.

Q. What I want to know is the free right to go to the coast of Nova Scotia?

A. They don't go to the coast of Nova Scotia waters at all.

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HADDOCK

By Senator SAULSBURY:

Q. Are haddock caught in the State?

A. They don't go to the coast of Nova Scotia waters at all.

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A. They don't go to the coast of Nova Scotia waters at all.

AMERICAN CAPITAL INVESTED IN FISHERIES.

Q. Have you ever made an estimate of the capital invested in the fishing business in this country in the way boats and vessels?—A. There are statistics gotten up that give all that. It is a good many million dollars. It has been estimated, I think, that it gives employment to 500,000 people.

INFORMATION TO THE STATE DEPARTMENT.

Q. Have any of the interruptions and irritations that have existed on the part of these vessels been made known to the Secretary of State?—

A. I think they have been; while Mr. Fabson was collector of the port of Gloucester everything was reported, and I think they are to-day, although they are more important since the expiration of the treaty than they were before. They evidently make all the trouble that they possibly can.

Q. There were irritations before the expiration of the treaty?—A. None of any consequence.

By Senator EDMUNDS:

Q. Except the Fortune Bay affair and things of that kind?—A. There were some little things like that, but they were of no consequence.

NUMBER OF VESSELS IN BRITISH WATERS.

Q. How many vessels altogether do you think have gone to those northeastern waters to fish for mackerel, cod, and halibut this year?

The WITNESS. Where do you mean?

Senator EDMUNDS. I mean the Gulf of St. Lawrence and along the coast of Newfoundland and Labrador.

A. They don't go on that coast at all. The fleet that has gone into Nova Scotia waters are mackerel catchers, and occasionally they take a few halibut; the cod-fishers don't go there.

Q. What I want to get at is the number of vessels that, if they had the free right to go in as they had before, would have been in a situation where they might have used it.—A. It would depend altogether upon circumstances. Previous to this present year none would have gone if they had had the privilege.

[A bystander stated that there were 90 to 95 vessels from the port of Gloucester that had gone into the Canadian waters this year.]

HADDOCK, MACKEREL, AND HALIBUT.

By Senator SAULSBURY:

Q. Are haddock caught in our waters?—A. Yes, sir; and our vessels do not go up there for them. There is no fish they go there for except mackerel. The present year has been a marked exception. For fourteen years mackerel fishing was better on our shores, and it was a loss for them to go up there at all.

Q. Are haddock caught up there in their waters?—A. Yes, sir.

Q. Are they brought here by the Canadians?—A. I think not; they may be to a limited extent.

Q. Where are the halibut caught?—A. Sometimes 3 or 4 miles off-shore; very rarely inshore. They are caught off the Georges and in waters that are open to the fishermen of all the world.

Q. Are halibut sent here by the Canadians?—A. Only very little. They don't follow that business at all.

Q. Then the only Canadian fish, as I understand it, that come in competition with yours, are the mackerel and codfish?—A. Mackerel and codfish. The Canadian ports are closed, substantially, six months in the year by ice, during which time all their fishing grounds are full of ice; you can't get within a hundred miles of them. If the American fisheries were destroyed you could not get a substitute for them from the Canadians, only to a limited extent, because, as I say, their fishing grounds are closed up by ice, and they can't get in there until June. Their waters are unnavigable for some four or five months on account of the ice, and their ports all along down are so far north that they are substantially closed in the winter time.

Senator EDMUNDS. There is a great deal of the time that the Strait of Northumberland is closed.

DUTY.

The WITNESS. This fish question opens up a wide field for the consideration of political economists. From my observation I am led to the conclusion that, taking the duties as they are to-day, you might fairly say that the advantage, if anything, is in favor of the Canadians even with our duties against them.

By Senator EDMUNDS:

Q. You are speaking of salt fish?—A. Salt and fresh, all kinds.

Q. There is no duty on fresh fish now?—A. No.

SALT AND FRESH FISH.

By Senator SAULSBURY:

Q. What proportion of the fish caught by our fishermen are fresh and what proportion salt?—A. I should say that in value perhaps 2 per cent. are fresh.

SOUTHERN MACKEREL FISHING.

Q. Do your vessels go down the Southern coast as far as Cape Hatteras?—A. Oh, yes; they go down there in the early spring, and follow along the coast during the summer and fish off the Georges.

Q. Does the whole fleet go there, or only a part?—A. Only a certain portion.

By Senator EDMUNDS:

Q. They only go there for mackerel, I suppose?—A. Only for mackerel. They go as far south as Nantucket for codfish. Our business has been more largely the catching and marketing of codfish, because it has been generally more steady and there has been a larger demand for that class of fish.

JAMES G. TA

By Senator

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TESTIMONY OF JAMES G. TARR.

GLOUCESTER, MASS., *October 5, 1886.*

JAMES G. TARR sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Fifty-six.

Q. Where do you reside?—A. Gloucester.

Q. What is your occupation?—A. Commission merchant.

Q. And owner of fishing vessels as well?—A. Yes, sir.

Q. How long have you been in the business?—A. Thirty years.

Q. How many vessels have you?—A. Twelve.

Q. What kind of fishing have you been engaged in?—A. Mackerel, halibut, and codfish.

Q. Did your vessels fish for mackerel in what we, for short, call Dominion waters from 1870 on, during the time of free fish and free right to go in?—A. Yes, sir.

THREE-MILE LIMIT.

Q. Where were the larger part of the mackerel up there taken during that time?—A. The larger part were reported by the captains to have been taken on Bank Bradley and Bank Orphan.

Q. How far from the shores?—A. From 15 to 20 miles.

Q. What portion of all the catch you know anything about of mackerel in those waters has been taken in the last ten or fifteen years inside of three miles from land?—A. About one-eighth of the catch of our vessels.

Q. Of what value would you regard the right of your vessels, and those of people similarly engaged, to fish for mackerel within 3 miles of the shore up there?—A. Very slight.

Q. Mackerel are now taken entirely by seine and not by bait with hook and line, I suppose?—A. Yes, sir.

Q. How far is it necessary for your vessels to go in toward the shore while engaged in mackerel fishing?

The WITNESS. To pursue fish?

Senator EDMUNDS. For any purpose.

A. Stress of weather, of course, is one of the causes for them to seek harbors, and for wood and water. This season we have sent but few, and those vessels have been so fitted that they have had no occasion to purchase anything ashore aside from wood and water.

Q. How much of an inconvenience or loss to your business has it been that they have not been allowed to go in this year?—A. None whatever.

COD-FISHING.

Q. Where has your cod-fishing been done?—A. Principally on the Georges Banks. We have had only one at the Grand Banks.

Q. The Georges are the nearest Banks to this port, are they not?—A. Yes, sir.

Q. How many miles is it to the Georges?—A. Two hundred or more.

Q. Take your Grand Banks fisheries and the Banks around Sable Island, &c., how far is it necessary for your cod-fishing vessels to go to Canadian ports?—A. Only for wood and water.

Q. And shelter, I suppose, in case of storm?—A. Yes, sir.

SHELTER.

Q. Do the vessels generally run in from the Grand Banks for shelter in case of storm?—A. No, sir.

Q. They are too far from land?—A. Yes, sir. So those off the Georges never run for shelter.

VESSELS AND CREWS.

Q. Is the size of your vessels about the same as has been mentioned by the other witnesses whom you have heard?—A. Yes, sir.

Q. About what proportion of the crews are American citizens?—A. I think three-fifths of our crews are American citizens.

Q. You have about the same number to the vessel as the other witnesses have stated?—A. Yes, sir.

Q. From twelve to fifteen and twenty, and so on?—A. Yes, sir.

TREATY OF 1870-71.

Q. Taking the whole fishery question together, then, do you regard the rights that you have had while the treaty of 1870-71 was in force of any substantial value?—A. No, sir; for this reason: We have sent for thirteen years past on an average three vessels per season into the Gulf of St. Lawrence for mackerel; those vessels in that time, with all the advantages of free fishing, have not paid their way; they have run behind and haven't paid their bills.

MACKEREL CAUGHT IN AMERICAN WATERS AND IN CANADIAN.

Q. From 1870 down to this time what proportion of the whole catch of mackerel that comes to this port have been caught in these northern waters, as against the proportion caught in what we would call American waters, or along our own front?—A. I should judge the American catch in the provincial waters would not show more than one-fifth of the whole catch in the fifteen years.

Q. Then in a long series of years by far the largest part of the mackerel caught are taken off our own coast?—A. That has been my own experience.

Q. During all that period what proportion do you think of those that were caught in what are called Dominion waters were taken within three miles of the shore?—A. I think not more than one-eighth of the catch.

TESTIMONY OF GEORGE STEELE.

GLOUCESTER, MASS., October 6, 1886.

GEORGE STEELE sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Nearly fifty-eight.

Q. What is your occupation?—A. The fishing business and insurance business.

Q. And you are a vessel-owner and outfitter as well?—A. Yes, sir.

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Senator EDMUND

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Q. How long have you been in the business?—A. Directly and indirectly since 1848.

Q. How many vessels have you?—A. Twelve.

AMERICAN FISHERY UNION.

Q. Have you any official connection with the fishery matters?—A. Yes, sir.

Q. What is that?—A. President of the American Fishery Union.

Q. What does that union comprise; what is it?—A. It is an organization which held a meeting at Gloucester two years ago next December, representing the whole of the New England fisheries. At that convention some seven or eight were chosen as directors, and I was president of that board.

NEW ENGLAND FISHERIES.

Q. When you say that it embraced the whole of the New England fisheries, do you mean that it includes shore-fishing with boats and vessels?—A. Boats and vessels; it includes the whole; everything on the New England coast.

Q. About what proportion of the American fishing interest is comprised in what you call the New England fisheries?

The WITNESS. To include the boat business?

Senator EDMUNDS. To include the boat business.

A. I should think it would be nearly 80 or 90 per cent.

Q. Are there any cod-fishing and mackerel or halibut fishing vessels fitted out in other Atlantic ports outside of New England?—A. Not that I know of, unless it is in the Gulf States and on the Pacific.

Q. I am speaking of the Atlantic.—A. No, sir; none that I know of, any amount.

Senator EDMUNDS. I am under the impression that there is possibly one in New York and possibly one in Philadelphia.

The WITNESS. There might be one in New London.

Senator EDMUNDS. That is in the New England district. Then, substantially, for the fishery question we are inquiring into—and you might include the whale fishery as well, but no matter for that—I understand that the fishery that brings us in contact with the British Provinces is carried on in New England within the province of your bureau?

The WITNESS. Yes, sir; and I suppose you know, of course, that the fisheries are interested as we are.

Senator EDMUNDS. Yes, I understand that. But the lake fishery is mostly done in boats, is it not?

The WITNESS. Yes, sir.

Q. And that is not within your New England American Fishery Union, is it?—A. No, sir; they are not in our organization, but so far as their fish are concerned I was surprised to learn at Sandusky and Toledo that their fresh-fish business causes them to be interested in the business on the New England coast.

Q. And then when you add to that the interests of Lake Superior, Lake Huron, and of the Wisconsin people, it increases the scope a great deal more?—A. Yes, sir.

COD-FISHING.

Taking the first, or some line of inquiry you have heard us carry on here, you may tell us, beginning with cod-fishing vessels, where they go to fish.

THE WITNESS. You would like my experience with my vessels in 1886?

Senator EDMUNDS. Take those vessels for the last ten years; where have they gone to fish?

A. Hand-line fishing on Georges Bank and other Banks nearer; the Western and Grand Banks.

Q. Where is the trawl fishing carried on for cod?—**A.** Mostly on the Western and Grand Banks.

TRAWLS AND HAND-LINES.

Q. Which is the more successful kind of fishing, trawl, or hand-line fishing?—**A.** I should think, for the owner, the hand-line fishing was the most favorable.

Q. How for the fishermen themselves? If they all go on the lay, why do you make that distinction?

A. The expense of fitting a vessel for trawling is greater to the owner; but I think, as a general thing, the men will make more for their share by setting thousands of hooks than they will by just attending to two.

Q. How long are these trawls?—**A.** If I understand rightly about it, when one of these large vessels has all her trawls out they will extend over some 5 miles.

Q. How long would each trawl be?—**A.** I could not say exactly about that; I am not so well posted.

Q. As we Yankees say, you can give a guess.—**A.** I could not tell you exactly; I do not know about that.

Senator EDMUNDS. Is there not a fisherman present who can tell about the ordinary length of a trawl line?

THE WITNESS. It would be merely guess-work on my part. I am just informed by Captain Smith, now present, that they have about 25 or 30 lines upon a trawl, which average about 30 fathoms to a line.

Senator FRYE. Six feet being a fathom?

THE WITNESS. Yes, sir.

BAIT.

Q. (By Senator EDMUNDS.) Have your cod-fish vessels had any necessary occasion to visit the British Provinces?

THE WITNESS. Do you wish the experience of 1886?

Senator EDMUNDS. No; I am speaking now of the ten years past. We will come down to 1886 by itself.

A. They have always more or less taken bait from the Provinces lately in the season; the first of the season we got bait more on the American coast.

Q. How often have your people got bait in the British Provinces?—**A.** I should think their bait bills would amount to not less than \$3,000 and from that to \$5,000, for my fleet of vessels.

By Senator SAULSBURY:

Q. Is that the annual cost?—**A.** Yes, sir; that is the annual cost. I have the exact figures at hand.

By Senator EDMUNDS:

Q. That is near enough for our purposes. That privilege being denied you, how do you get bait; what do you do?—**A.** I shall have to tell you what we have done this year when denied that privilege. We have had five vessels down there at Grand Banks fishing in the year 1886, and with one exception they have not taken any bait on the Nova

Scotia shore. A made their trip Fortune Bay and once or twice, and made from one to mentioned have

Q. How did the compare with the fish, if not more.

Q. But I suppose can buy bait?—

Q. Taking the to the American shores?—**A.** Not

Q. You would think there is any or deny us for. wh our markets.

Q. Now we come into what we call years?—**A.** Yes, s

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Senator FRYE. Y chairman asked yo British waters were what proportion in

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Scotia shore. All their bait was taken here in March and April. They made their trip to the Western Banks and then came home and went to Fortune Bay and St. Pierre, Newfoundland, and took their bait there once or twice, and went to the Grand Banks. They have all of them made from one to three trips each, and with the one exception I have mentioned have not taken bait upon the Nova Scotia shore.

Q. How did the catch of the vessels that carried their bait from here compare with the one that got bait on the coast?—A. They got as many fish, if not more.

Q. But I suppose it is a saving of time in going to the shore if they can buy bait?—A. Yes, sir.

Q. Taking the cod-fishery, then, what, in your opinion, is the value to the American fishing interest of the right to get bait on British shores?—A. Nothing whatever.

Q. You would not care anything about it?—A. No, sir; I do not think there is anything, any privilege whatever, that they could give us or deny us for which we would be willing to admit their fish free into our markets.

MACKEREL FISHERY.

Q. Now we come to the mackerel fishery; have your vessels been up into what we call British waters for mackerel during the last ten years?—A. Yes, sir.

Q. Where have those mackerel been caught?—A. They have been caught mostly on this shore.

By Senator FRYE:

Q. The American shore?—A. The American shore.

By Senator EDMUNDS:

Q. I am speaking of those that have gone into what we call British waters. Where have the fish been caught down there?—A. Mostly upon this shore, except this present season; the largest part of the catch has been on this shore.

THREE-MILE LIMIT.

Senator FRYE. You did not understand the question exactly. The chairman asked you what proportion of the mackerel you captured in British waters were captured outside of the three-mile shore line, and what proportion inside of the three-mile shore line.

The WITNESS. None whatever have been caught within the three miles, to my knowledge.

Q. (By Senator EDMUNDS.) During any of the time?—A. No, sir.

Q. The best place to get them is more than three miles off shore?—A. Yes, sir.

MACKEREL CATCH.

I can state here in round figures, if they will be useful to you, that only four per cent. of the total catch of mackerel in the last 5 years has been taken in British waters, when we had the privilege to fish anywhere we pleased. The catch in British waters amounted to 75,000 barrels, and the total catch amounted to 1,800,000 barrels.

THREE-MILE LIMIT.

Q. Taking the 75,000 barrels, how many of those barrels, according to your information, were caught within three miles of the British shore?—A. I should not think over 8 per cent.

Q. How far is it necessary for your vessels, that go to the Bay to fish for mackerel, to enter British waters within the three-mile shore line?—A. I should not think there was any necessity of them going within 5 miles, and from that to 10 and 15 miles.

Q. I mean for any purpose?—A. Not for any purpose really, according to my experience, only for shelter and water.

FUEL, SHELTER, AND WATER.

Our vessels are well provided, as a general thing, with fuel, and it is only necessary to go in for water and shelter, and we do not require shelter in the Bay of Chaleur anywhere until late in the season. In June and July they do not require that, even, and it is only occasionally that they would have to go in for water.

FRESH FISH.

Q. Do you bring catches of fresh mackerel from the Bay?—A. No, sir.

Q. It is too far for sailing vessels?—A. Too far.

Q. So that you would have no occasion to go ashore for ice?—A. None.

HALIBUT FISHERY.

Q. In your halibut fishery you carry the ice out from here always, do you not?—A. Yes, sir.

Q. And stand right straight off for the halibut-fishing ground?—A. Yes, sir. We take from 25 to 40 tons to a vessel.

LANDING PRIVILEGES.

Q. Taking the cod-fishery, the mackerel fishery, and the whole thing together, how far do you regard as of any practical value to American fishing interests the right to go ashore or inside the three-mile limit except for shelter and for fresh water?—A. I should not think it was of any value whatever.

Q. You would not consider, then, that you would make any more money in your business, or that your fishermen would make any more in theirs—which is the same thing—if Canada were voluntarily to give you the free right to fish offshore and return as often as you wished?—A. No, sir; only it might be a convenience.

Q. But, of course, all the time your vessels were in port they would not be getting fish?—A. That is true.

NATIONALITY OF FISHERMEN.

Q. What proportion of your men, taking it for 10 years together are American citizens?—A. I should think about two-thirds.

Q. Those men have their residence here or in this neighborhood, somewhere along the American coast, I suppose?—A. Yes, sir.

Q. Their families and children, of course, have all the benefits of your schools and everything of that kind?—A. Yes, sir.

EFFECT OF DUTY ON PRICES.

Q. Do you know anything as to how the imposition of the duty, the 1st of July, on Canadian salt fish affected the price here?—A. It did not affect it at all.

Q. The prices were raised?—A. Nobody raises the price, it is what the market will bear.

WHOLESALE AND RETAIL PRICES.

Q. Do you know the difference between the wholesale and retail prices of fish, as they are sold in the various places?—A. I should think the difference is the original cost of the fish.

Q. Do you know the difference between the wholesale and retail prices of fish, as they are sold in the various places?—A. I should think the difference is the original cost of the fish.

Q. The retail price of fish is higher than the wholesale price, I suppose?—A. Yes, sir. The retail price of fish is higher than the wholesale price, I suppose?—A. Yes, sir. The retail price of fish is higher than the wholesale price, I suppose?—A. Yes, sir.

Q. Are haddock caught in the same way as the mackerel?—A. They school together and are caught in the same way as the mackerel.

Senator EDMUNDS. The WITNESS. I wish you would ask me whether it is the experience of our inshore or offshore fish on Georges Bank, and not one of our fish in the Province of New Brunswick, American coast.

Q. I wish you would ask me whether it is the experience of our inshore or offshore fish on Georges Bank, and not one of our fish in the Province of New Brunswick, American coast.

MACKEREL FISH.

Senator FRYE. I wish you would ask me whether it is the experience of our inshore or offshore fish on Georges Bank, and not one of our fish in the Province of New Brunswick, American coast.

Q. The prices were not any higher as a result?—A. No, sir.

Q. Nobody raised his prices on account of the change of duty in any way that you know of?—A. No, sir.

WHOLESALE AND RETAIL PRICES COMPARED.

Q. Do you know anything on the subject of how the wholesale prices of fish, as they are shipped from this market or bought from the fishermen, wherever they are sold to dealers, compare with the retail prices in the various places where they are sold to the consumers?—A. I should think the cost to the consumers would be four times as much as the original cost.

Q. Do you know whether the retail prices of fish, in the sense I am speaking about now, to the people who eat them, vary up and down with the wholesale prices?—A. I don't think they do.

Q. The retail prices are only affected, if at all, remotely and gradually, I suppose?—A. Yes, sir. To give you an illustration: Our vessels supply the Boston market with haddock. We have sold them at 30 to 40 cents a hundred, and yet the retail price is 6 to 8 cents a pound. Occasionally, when the market is not supplied quite rapidly enough, the price to us runs up to 2, 2½, and 3 cents a pound, but 3 cents a pound is a very large price for us as producers, and they rarely reach that price to the producer.

HADDOCK AND COD.

Q. Are haddock caught in the same places as cod?—A. Yes, sir.

Q. They school together, and haddock are caught at one haul and cod at another?—A. No, sir; they generally catch haddock at a drift trawle.

BAIT.

Senator EDMUNDS. You can make any statement you desire.

The WITNESS. I would like to state that our vessels that have pursued our inshore or Georges fishing have produced more fish than usual, and not one of those vessels has bought any fresh bait whatever in the Provinces; all their bait has been taken upon our own American coast.

DIMINUTION OF FISH SUPPLY.

Q. I wish you would state, as far as you know or understand it, whether it is the experience or opinion of fishermen that the quantity of fish on Georges Banks has increased or diminished. I do not mean the year rather than another, but taking it for, say, 20 years. Has the supply kept up, or has the continual catching decreased the stock on the bank? I know the number varies from year to year more or less, but take it for a long period of years together.—A. I think during the last 20 years they have diminished.

Q. It takes longer to make a fare?—A. Yes, sir.

Q. Is the same true of the Grand Bank and Western Bank?—A. I think not as to the Western Bank; it might be, but the Grand Bank is what we call inexhaustible. It seems to be considered that that is what we shall have to rely upon in future for our codfish.

MACKEREL FISHERY IN BRITISH WATERS FOR 1885.

Senator FREY. I want to ask Mr. Steele a question about the mackerel fishery of last year in the British waters, and as to where the fish were found in those waters.

THE WITNESS. During only a small part of the season, while the American fleet has been in the North Bay, or waters off the provincial shore, have mackerel been found in any abundance, but, fortunately, when found, were 10 to 20 miles from shore. Nearly all the past season the native shore-fishermen have been unable to take but very few mackerel, the fish keeping wide out from shore, beyond the reach of their small boats. The total catch this year by the provincial fishermen will be found to be one of the smallest for many years, so much so that during the middle of the season at most of the fishing stations they gave up the catch entirely, but later on, as prices advanced, they were stimulated to make further exertions, because for a short time mackerel drew in near the shore, saving them from what would have been a very disastrous season. These facts are well known by all interested in the business, and can easily be proven if necessary.

This season, up to the present time, adds still another year to the many past showing that the inshore fisheries of the Provinces are of no value to American fishermen.

QUANTITY OF MACKEREL TAKEN IN THE PAST FIVE YEARS.

Senator FRYE. State as to the amount of fish taken the past five years.

THE WITNESS. This table will show that:

Year.	Total catch.	Catch of provincial shore.
	<i>Barrels.</i>	<i>Barrels.</i>
1881.....	391, 657	
1882.....	318, 863	
1883.....	226, 685	
1884.....	476, 018	
1885.....	378, 515	
Total.....	1, 851, 738	

These figures show that only about 4 per cent. of the aggregate catch were caught in provincial waters in the last five years, during which time American fishermen had the privilege to fish anywhere.

INSURANCE.

By Senator FRYE :

Q. You stated that you were president of an insurance company?
A. Yes, sir.

Q. Are you president of a mutual insurance company here?—**A.** Yes, sir.

Q. The bulk of your insurance is of what nature?—**A.** On fishing vessels.

Q. Stock, or mutual company?—**A.** Mutual.

Q. What is the average cost of insurance for those fishing vessels annually?—**A.** I should say annually about 9 to 10 per cent.

Q. Nine to 10 per cent. of the full value of the vessel?—**A.** Well, as valued by the directors.

Q. About what are your annual losses here in fishing vessels?—**A.** The losses to our Gloucester Mutual, I should think, would average somewhere in the vicinity of about 7 or 8 per cent.

ANNUAL LOSS

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ANNUAL LOSSES OF VESSELS AND MEN FROM THE GLOUCESTER FLEET.

Q. How many fishing vessels on the average are lost here every year?—

A. I should say 10 to 15.

Q. How many of the men are lost annually?—A. From all causes 100 to 150.

COMPARATIVE COST OF UNITED STATES AND CANADIAN VESSELS.

Q. Will you give a statement showing the comparative cost of a fishing vessel as between the United States and Canada?—A. A United States fisherman, a hundred-ton schooner, would cost about \$80 per ton. A Nova Scotia vessel, I should say, would cost about \$40 a ton.

Interest on the \$8,000 capital invested in the United States vessel, which I should call a fair average for vessels, would be \$480.

Insurance on the same, at 10 per cent., would be about, I should say, \$800.

Insurance on the outfit, at 10 per cent., would be \$180.

Deterioration marked off from our new vessels would be considered generally about 15 per cent.; the percentage is larger on fishing vessels than on the coasting vessels; they depreciate and deteriorate very rapidly. That I should call about 15 per cent.; 15 per cent. of \$8,000 would be \$1,200.

Taxes on the capital of an \$8,000 vessel here in Gloucester at about 2 per cent.; what I call city taxes amount to about \$160.

The outfits would be about \$1,800 on an average. I would state here that our vessel outfits are all the way from \$700 to \$2,500, and average about \$1,800. Two per cent. of that would be \$36.

Duties, direct and indirect, upon vessels, outfit, clothing, and provisions, I should say about 30 per cent. Fishermen all wear woollen clothes, and it is a pretty heavy tax upon all.

As near as I can reckon, these items amount to about 30 per cent. on the whole.

Now, as to provincial vessels:

Interest on their capital would be \$240 a year.

Interest upon outfits and insurance about \$400.

Deterioration only about, I should say, 10 per cent. I don't think those vessels, as a general thing, deteriorate so much as ours, on account of the lateness of the season when they start, and they do not fish so late in the year; they might fish from five to seven months, where we take from ten to twelve. So that the deterioration is more rapid on our vessels.

Duties, indirect and direct, as above, upon English vessels, none, with the exception of spirits.

Taxes, none.

BOUNTY.

Q. Besides that, do they pay a bounty to their fishermen?—A. Yes, I may be mistaken, but I think in round numbers it amounts to some \$2,000,000. I forget the amount, but I know it is a large amount.

EFFECT OF TREATY OF 1854.

Q. During the pendency of the treaty of 1854 what effect did it have on the American fishery fleet?—A. We did not feel the effect of that reciprocity as much as we did of the recent treaty, first, on account of

there not being the vessels in the business at the commencement of the treaty; and then, as the Senator has just suggested, we had a bounty which expired, if I remember, in 1866, of nearly half a million dollars paid to the fishing interests, of which Gloucester received probably something like \$130,000 to \$150,000.

INSHORE FISHERY.

Then, if you will remember, in the year 1866—I want to say a little in regard to the valuation of the inshore fishery—they charged us 3 cents per ton as license for the privilege of fishing within the three miles. Then we had some three hundred and odd licenses. In 1868 the license was carried up to \$1 a ton. Then the number of licenses was reduced and came down to 150 sail that availed themselves of that privilege. In 1869, when the license went up to \$2 a ton, it was almost prohibitory. There were only about 13 vessels took that license.

CANADIAN LICENSES TO FISH.

Q. That was the Canadian license for fishing in their waters?—A. Yes. I only state this to show the little value we put upon that inshore fishing in those 3 or 4 years up to 1870, with the \$2 prohibitory license. They would not pay that amount for that privilege; they didn't think it worth it. The number of licenses had dwindled down from 300 to 13.

EFFECT OF THE TREATY OF 1854.

As far as the treaty was concerned we did not feel the disadvantage at first, because at first we had a bounty, as I say, and then the English fleet was very small indeed. But they were afterwards stimulated.

TREATY OF 1870-71.

Q. Now come to the other treaty.—A. After the other treaty of 1854 of course they increased rapidly. They are almost fourfold I might say, while we have really diminished.

By Senator SAULSBURY:

Q. Have you diminished in tonnage as well as the number of vessels?—A. I should think we have diminished more in number than in tonnage, because our vessels have been built on a larger scale; but of course I have not those statistics and have only general knowledge.

By Senator FRYE:

Q. Was your actual increase in tonnage the last 6 or 8 years at all proportion to the increase in the demand for fish product?—A. No, not at all.

Q. Suppose you had supplied the American market the last 10 years how much larger would the fleet be than it is to-day?—A. I should think it would be one-third larger. I think we have the facilities on our coast and in our harbors to take all the fish that the people of the United States want, even if our population amounted to 100,000,000 if we could only have the demand for the catch.

GRAND BANKS INEXHAUSTIBLE.

Q. In your judgment would the price of fish be increased to the summer?—A. I think not. It is well said that when the New England

fishermen go to the Grand Bank will clean up the fish.

Q. What, to come in fresh, for immediate use to us. I think business is good years. What all over the country fish will take people like to eat in order.

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fishermen get on to any Bank it is only a question of time when they will clean up that Bank of fish, except one Bank; as I said before, the Grand Bank seems inexhaustible.

FREE FISH.

Q. What, in your judgment, has been the effect of allowing fresh fish to come in free for general market under this clause of the tariff, "Fish, fresh, for immediate consumption"?—A. I think it has been a detriment to us. I think they ought not to come in free. I think the fresh-fish business is going to be the largest part of the business within twenty years. What with the refrigerator store-houses and cars, taking them all over the country as they do, I think the time is coming when fresh fish will take precedence of salt fish, because, as a general thing, people like to eat fresh fish in the room of salt if they can get them in good order.

FRESH HALIBUT ON ICE.

Q. We saw this morning a cargo of halibut being landed at your wharves; how long had those halibut probably been on that vessel?—A. Probably a fortnight or three weeks.

Q. Were they in good condition as they were landed?—A. I should say that they were; yes.

Q. And they had been kept in ice?—A. Yes, sir.

Q. Keeping them in ice is a new thing, is it not?—A. Yes, sir.

Q. After those fish were landed they were boxed in ice?—A. Yes, sir.

Q. For what market?—A. Principally for Boston and New York.

Q. When they arrive in New York and Boston, what is done with them?—A. They are distributed all over the country to the consumers.

Q. In refrigerator cars?—A. Yes, sir.

Q. And preserved in refrigerators in the market?—A. Yes, sir.

Q. For how long may those fish be kept in good condition?—A. An indefinite period, I should say; as long as they can be kept frozen, whether one year, or two, or three.

By Senator EDMUNDS:

Q. They are frozen at New York and Boston?—A. Yes, sir; they have a refrigerating store-house in Boston where they are frozen, and remain, I think, an indefinite period.

SMOKED HALIBUT.

By Senator FRYE:

Q. Suppose this cargo of halibut which was being landed here this morning should be boxed and sent to New York, is there anything to prevent the smoking of all those halibut?—A. No, sir.

Q. Is there any way in which your collector here could follow those halibut and see that they were not cured?—A. I think not.

Q. So that those fresh fish which are brought in frozen may, without any difficulty at all, be transported elsewhere and cured?—A. Yes, sir.

Q. How long have the various methods of freezing fish and having refrigerators on cars and on fishing vessels been in existence?—A. For ten or fifteen years in connection with fresh halibut, I should think.

By Senator SAULSBURY:

Q. Do you know whether, as a matter of fact, those fish that are sent to New York and Boston in ice are subsequently smoked and put on the market as dried and salt fish?—A. I could not say.

By Senator FRYE:

Q. I suppose, as a matter of fact, many of these halibut that come in fresh—the gray halibut or gray parts of halibut—are subsequently smoked?—A. Yes, sir. I will say that these halibut that come in here are smoked right here, and of course it could be done other places as well, if they wished.

By Senator EDMUNDS:

Q. Why are they smoked here?—A. Because they make a business of smoking them here.

Q. Out of that cargo of, say, 24,000 or 25,000 pounds, how many fish would be smoked? Would it depend on the market in New York?—A. I think it depends on the market in New York and Boston. When they run low, as a general thing, they go to the cutters, and are cut up and made smoked halibut of.

Q. So that these people whom we saw have these halibut this morning, if they found that they could not get a profit in New York and Boston, would cut them up?—A. Yes, sir. They have a regular agreement with cutters to take so many all the time when they are not marketable, and that depends on the condition of the fish.

SMOKING ESTABLISHMENTS AT GLOUCESTER.

Q. If I understand you, that smoking-establishment is here at Gloucester?—A. There are some two or three establishments here.

Q. How extensive are those smoking-works?—A. Quite extensive. They smoke millions of pounds every year. The vessels go out to Flemish Cap, two-thirds across the Atlantic, and the halibut they get are all salted and cut up on board the vessel; they then come here, and of course are only suitable for smoking.

Senator FRYE. They pay duty.

Senator EDMUNDS. They come in American vessels.

By Senator FRYE:

Q. If they came in Canadian vessels now they would not pay any duty?—A. No; they can be packed in ice, and also preserved by smoking

DUTIES UPON ARTICLES ENTERING INTO THE CONSTRUCTION OF VESSELS.

I heard the Senator speak in regard to what duties we are paying. I think I can give you a little information in regard to the construction of our vessels.

Senator EDMUNDS. State it, if you wish to.

The WITNESS. The duty on cables and cordage is about 20 to 25 per cent.

CABLES AND CORDAGE.

By Senator EDMUNDS:

Q. Are the cables and cordage you use imported?—A. No, sir; they are manufactured in this country, but the tax I speak of is the tax on the raw material, what we call raw manila hemp or manila grass, as it is sometimes called. There is no vessel sails that uses so many pounds as fishermen, on account of their 300 to 900 fathoms of 9-inch cable, which weighs a good many thousands pounds. In fitting out a vessel they will use 6,500 to 8,500 pounds of that manila, which is a very heavy tax.

Q. Do you know taken off the purchase that clear to your question. Combining power, and I think costs to manufacture sustain that or not in the hands to-day of manila grass.

Q. You know the e
A. I don't think we

DUTY

By Senator FRYE:

Q. Do you know, to fishermen, in what of Congress?

The WITNESS. We Senator FRYE. Yes a fishing vessel now built for foreign trade.

The WITNESS. Do any manila we now use Senator FRYE. I do drawback is allowed.

The WITNESS. We Senator FRYE. The The WITNESS. It is Senator FRYE. I know which extended to fish the foreign trade, so that allowed to vessels engaged.

Senator EDMUNDS. cordage? Senator FRYE. That Senator EDMUNDS. he would find he could

The WITNESS. If we have to pay duty, but it would save the duty Senator EDMUNDS.

The WITNESS. A cent a saving of 1 to 2 would be on anchors of fishing vessel.

I would say now that sound on the manufacture in this country on account of the cable and pliable; that Russia.

Q. Do you know if that duty that is paid on the raw material were taken off the purchaser whether the cordage would cost any less? Is that clear to your mind?—A. Well, I don't know. Of course it is a question. Combinations are very strong in New York with the money power, and I think to-day manila is two or three cents higher than it costs to manufacture it on account of the ring. Whether they could sustain that or not with the duty off, I don't know. But really we are in the hands to-day of, say, four men, who control the whole importation of manila grass.

Q. You know the experience in taking off the duty from tea and coffee?—A. I don't think we should feel any benefit to take it off.

DUTY TAKEN OFF BY SHIPPING ACT.

By Senator FRYE:

Q. Do you know, as a matter of fact, that the duty was all taken off to fishermen, in what was known as our shipping bill, at the last session of Congress?

The WITNESS. Was it?

Senator FRYE. Yes; that is to say, under the law passed last winter a fishing vessel now has all the benefits which were given to our ships built for foreign trade.

The WITNESS. Do I understand you that there is no duty paid upon any manila we now use upon vessels?

Senator FRYE. I do not know whether it would include manila. A drawback is allowed.

The WITNESS. We have never had any drawback here.

Senator FRYE. Then the law has not been enforced.

The WITNESS. It takes effect some time in the future.

Senator FRYE. I know I had a provision put in the bill in the Senate which extended to fishermen all the privileges allowed to vessels built for the foreign trade, so that your vessels have the same privileges that are allowed to vessels engaged in foreign trade.

Senator EDMUNDS. Does that apply to the manila brought in for cordage?

Senator FRYE. That would be American cordage.

Senator EDMUNDS. Undoubtedly, if he bought his cordage in London he would find he could not get it any cheaper.

ANCHORS AND CHAINS.

The WITNESS. If we wanted chains to-day for the vessel we would have to pay duty, but if the vessel should go into Halifax and buy them it would save the duty.

Senator EDMUNDS. How much would it save?

The WITNESS. A cent or a cent and a half a pound; not over 2 cents; but a saving of 1 to 2 cents a pound on chains is quite an item. So it would be on anchors or any iron in the construction or running of a fishing vessel.

RUSSIAN BOLT ROPE.

I would say now that there is a duty on Russia bolt rope of 3 cents a pound on the manufactured article, because we can't manufacture it in this country on account of not having the Russia tar, which makes it so supple and pliable; that quality is given to it by the tar that they use in Russia.

FISH-HOOKS.

I heard some gentleman ask this morning about hooks. There is a duty of 45 per cent. on hooks manufactured in a foreign country, and yet they won't allow you to import steel, from which hooks are made, without paying a duty of 60 per cent. I don't know why it is. Why should there be a duty of 45 per cent. on the manufactured article, and 60 per cent. on the raw material? We could compete in this country in the manufacture of fish-hooks if we only had that raw material cheaper.

By Senator EDMUNDS:

Q. Are the American hooks made from imported steel?—A. Not so much now as they used to be; the duty is 20 high.

Q. Is there any difficulty in manufacturing American steel that is good for fish-hooks?—A. They do not seem to prove so good as a general thing. No hook that we can get is equal to the imported Scotch hook.

Q. That is on account of the Scotch wire, I suppose?—A. On account of the Scotch wire.

WIRE ROPE.

By Senator SAULSBURY:

Q. What articles are there entering into the construction and equipment of one of your fishing vessels which have to pay duty, besides cordage, iron, &c.?—A. I have spoken, of course, of the anchors and chains; then there is wire rope, on which there is a duty of something like 45 or 78 per cent.

Q. Do you use much of that?—A. We are using more and more for the standing rigging of the vessel, and we are trying it as an experiment for cables.

Q. And there is a duty on the raw material that enters into your cordage?—A. Yes, sir.

Q. Now, if those duties were taken off of the manila and other things, ought you not to be able to buy those things cheaper in this market than now?—A. Yes; I should say of course there would be a great saving.

DUTIES ON ARTICLES OF CONSTRUCTION AND OUTFIT.

Q. Can you form an estimate of the amount of duties paid upon a vessel, say of 100 tons, upon the material entering into her construction and outfit?—A. I should say, to the best of my judgment, it would be 30 to 35 per cent.

By Senator EDMUNDS:

Q. That is, if the whole duty is charged to the person who puts it on the ship?—A. Yes, sir.

Q. And whether it is or not is the question?—A. That is it.

RATIO OF MARRIED TO UNMARRIED FISHERMEN.

By Senator SAULSBURY:

Q. Some inquiry has been made about the number of fishermen. I would like to ascertain, as a matter of information, about the number of men engaged in fishing, as to whether they are men usually of families, or whether a large proportion are single men?—A. A large proportion of them are single men, young men, on account of the hazardous

character of the business than obliged to go out. So, as a rule, sue the fish, women.

Q. What proportion of years of age?—vessels we pass were, from eight men that we have mackerel catch fresh-halibut business.

FISHERMEN.

By Senator

Q. On the whole, the world can produce

Q. During the Yes, sir; by the in those times in sented. We seen a character where we respond I don't think ever

Q. How do you of fishing, as you them after they sentiment?

The WITNESS. same.

Senator FRYE.

A. Yes, sir; you our naturalized property, and some Americans as I am whole interest is v

DAVID S. PR

By Senator

Question. State

Q. Residence.—

Q. Occupation.—

Q. What business

character of the business. A younger class of men go in the fresh-fish business than in other kinds of fishing, as a general thing. They are obliged to go over the rail and get into a boat and go out, and after a man gets to be over 35 he wants to remain aboard and fish from the vessel. So, as a general thing, where they have to leave the vessel to pursue the fish, whether mackerel or trawling, they generally have younger men.

Q. What proportion of your fishermen do you suppose are over forty years of age?—A. I should think about one-third. If you noticed the vessels we passed this morning you saw what young-looking men they were, from eighteen to twenty-two, I should think. The best class of men that we have for fishing, I think, as a whole, are employed in our mackerel catchers, and the next grade I should say would be in the fresh-halibut business, or in the fresh-fish business anyway; it is a quicker business.

FISHERMEN GOOD MATERIAL FOR SOLDIERS AND SAILORS.

By Senator FRYE:

Q. On the whole, what kind of sailors are they?—A. I don't think the world can produce better.

Q. During the last war did they take any part in the conflict?—A. Yes, sir; by the hundreds. I don't think there was a naval vessel afloat in those times in which the fishermen of New England were not represented. We sent a regiment of soldiers from Gloucester. That has been a characteristic in our wars, especially during the war of 1812, where we responded at Marblehead, and braver men and more daring I don't think ever existed.

NATURALIZED CANADIANS.

Q. How do you find the Canadians who come here and learn the trade of fishing, as you all agree about thinking they do? How do you find them after they become naturalized citizens? Are they of American sentiment?

The WITNESS. You refer more to the men from Nova Scotia, I presume.

Senator FRYE. Yes.

A. Yes, sir; you had a fair sample yesterday, on the stand, of one of our naturalized citizens. Quite a number of these men are now men of property, and some of them are our best citizens, and as true and loyal Americans as I am myself, or any other man in Gloucester. I think their whole interest is with us.

TESTIMONY OF DAVID S. PRESSON.

GLOUCESTER, MASS., October 5, 1886.

DAVID S. PRESSON sworn and examined.

By Senator EDMUNDS:

Question. State your age.—Answer. Forty-eight.

Q. Residence.—A. Gloucester.

Q. Occupation.—A. I am collector of customs.

Q. What business were you in before that?—A. In the fishing busi-

FISHERIES OF GLOUCESTER SINCE JANUARY 1, 1885.

By Senator FRYE:

Q. Have you responded to the letter directed to you by the subcommittee?—A. Yes, sir; I have the statements here.

Q. You may give us, then, first, the whole number of vessels licensed at this port since January 1, 1885, in the fishing business.—A. Above 20 tons there were 384 vessels, amounting to 26,499 tons; under 20 tons there were 54 vessels, amounting to 609 tons; in all, 438 vessels, 47,038 tonnage.

Q. Were any of them propelled by steam?—A. None of them propelled by steam; all propelled by sail.

NUMBER OF VESSELS CLEARED FROM GLOUCESTER FOR BRITISH NORTH AMERICAN PORTS.

Q. Now you may state the whole number of vessels cleared for any of the ports of the British North American Provinces during the same time.—A.:

Number of vessels cleared for ports in Nova Scotia, &c.

Vessels.	Number.	Tonnage.
British, &c., vessels (steamer).....	1	1,300
British, &c., vessels (barks).....	23	14,346
British, &c., vessels (schooners).....	116	10,346
American vessels (barks).....	2	800
American vessels (schooners).....	58	2,500
Total.....	200	30,300

Q. Do you know what proportion of these were fishing vessels?—A. None of them were fishing vessels.

PAPERS TAKEN BY FISHING VESSELS.

Q. As to those fishing vessels, what papers did they take out?—A. They took out an enrollment and license, and in a majority of the cases this year they have taken out a permit to touch and trade.

Q. Have you a form for one of those permits to touch and trade?—A. I have. This is the form:

Cat. No. 488.

PERMIT TO TOUCH AND TRADE.

UNITED STATES OF AMERICA,
District of _____,
Port of _____, 188.

Permission is hereby granted to _____, master of the _____ named the _____ of _____ burden _____, which _____ was licensed for carrying on the _____ fishery, by _____, collector for the district of _____, in the State of _____, on the _____ day of _____, to touch and trade at any foreign port or place during her voyage presently to be made.

Given under _____ hand and seal, the day and year above mentioned.

Collector.

Naval Officer.

Q. Do you
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Senator Frye
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The WITNES
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IMPORTATION

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28,464 pounds wa

—A. Yes, sir; we
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duties.

IMPORTATION

Q. Please give t
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Codfish, &c.....

Mackerel.....

Herring.....

Do.....

Hake.....

Oil.....

Amount of duty collec

By Senator

Q. Was that wh
from Newfoundland

By Senator

Q. Do you know
fore?—A. No, sir;

Q. Do you know whether those permits to trade have been recognized by the British authorities?—A. In all cases that have been reported to the office they have not been.

Senator FRYE. You may make that permit to touch and trade a part of your evidence.

The WITNESS. You will see by the blank form that it is good for only one voyage. Two hundred and fifty-four fishing vessels have taken permits to touch and trade, issued under section 4364, Revised Statutes, and no fishing vessel has taken regular clearance. Three hundred and fifty-nine permits were granted.

IMPORTATIONS OF FRESH FISH AND DUTIES COLLECTED.

Q. Now you may state the total number of pounds of fish imported during the year.—A. The total number of pounds of fresh fish imported during the year was 1,186,700, and the duties collected on 28,464 pounds amounted to \$142.22.

Q. How did you happen to collect the duties on any?—A. Those were the halibut that were not fit for the market and went to the cutters; on that my predecessor, Captain Babson, was allowed to collect the duties. He made the point with the Treasury Department that all should pay, but the Department decided that only those that were used for smoking or curing should pay the duty.

Q. The reason why Captain Babson was able to get at the proportion of that cargo of halibut that was cured was because they were cured here in Gloucester, was it not?—A. Yes, sir; 224,000 pounds of those fresh fish were halibut, and 962,700 pounds were fresh herring.

Q. Suppose, instead of being cured here, they had been sent to New York, would the collector have known anything about it?—A. Nothing at all, and none of the duties would have been collected.

Q. Is there any difficulty about bringing cargoes in here, entering them here, and shipping them to any port of the country?—A. No, sir; they can be boxed in ice and entered "for immediate consumption."

Q. And the fact that the collector did succeed in getting the duty on 28,464 pounds was because they were cured here right under your eyes?—A. Yes, sir; we could see them. We had a person attend to the delivery of the cargo, and on all that were not shipped off we collected duties.

IMPORTATIONS OF SALT FISH AND DUTIES COLLECTED.

Q. Please give the number of pounds of salt fish imported.—A. Number of pounds of salt fish imported:

Codfish, &c.....	pounds..	2,961,400
Mackerel.....	barrels..	580
Herring.....	pounds..	150,000
Do.....	barrels..	25
Hake.....	pounds..	206,200
Oil.....	gallons..	1,725
Amount of duty collected.....		\$10,174 35

By Senator EDMUNDS:

Q. Was that whale oil?—A. No; it was fish oil, probably imported from Newfoundland—imported before I became collector.

By Senator FRYE:

Q. Do you know anything about the importations for the year before?—A. No, sir; I haven't got those figures.

**STATEMENT OF NOVA SCOTIA VESSELS ENTERING AND CLEARING AT
PORT OF GLOUCESTER.**

Q. Have you any other statement that you have prepared?—**A.** I have a statement here in relation to the Nova Scotia vessels entering and clearing at this port for the purpose of fitting out this last spring, when our vessels in the Canadian ports were refused that privilege.

Q. Please give us that statement.—**A.** It is as follows:

Statement of Nova Scotia vessels entering and clearing at port of Gloucester, having visited said port for purpose of fitting.

Vessels.	Tons.	No. of men.	Entered.	Cleared.
Schooner <i>Circassian</i> , of Argyle, N. S.	116	7	Mar. 10	Mar. 18
Schooner <i>Maria</i> , of Argyle, N. S.	109	9	Mar. 11	Mar. 13
Schooner <i>Roseneath</i> , of Pubnico, N. S.	110	10	Mar. 15	Mar. 23
Schooner <i>Byron</i> , of Pubnico, N. S.	121	10	Mar. 17	Mar. 19
Schooner <i>Festina Lente</i> , of Lockeport, N. S.	81	10	Apr. 28	May 6
Schooner <i>Anna Robertson</i> , of Lockeport, N. S.	95	10	Apr. 30	May 6
Schooner <i>Geneva</i> , of Lunenburg, N. S.	107	17	May 15	May 20

The schooner *Circassian*, of Argyle, was fitted with bait, stores, and provisions for cod-fishing. The schooners *Maria*, of Argyle, and *Roseneath* and *Byron*, of Pubnico, were cod-fishermen. The other three were mackerel fishermen.

Q. These were English vessels?—**A.** All English vessels.

AMERICAN PORT PRIVILEGES AND CHARGES.

Q. Is there anything to prevent a Canadian vessel from coming here and lying at this port as long as she pleases?—**A.** They are obliged to report within 24 hours to the boarding officer, and are obliged to enter within 48 hours, unless detained here by stress of weather.

Q. What is the charge for entry?—**A.** Three cents a ton for tonnage dues; the entering and clearance fees would be 5.67 cents, I think.

Q. Is there anything in the custom-house rules or regulations to prevent their men from landing and going where they please?—**A.** No, sir.

Q. In other words, the Canadian vessel has the same privilege that an American vessel has?—**A.** Yes, sir.

Q. To buy bait or anything else?—**A.** Yes, sir.

THE CASES OF THE SCHOONERS RATTLER, CRITTENDEN, AND MOLLIE ADAMS.

The WITNESS. I was inquired of yesterday in regard to the schooners *Rattler*, *Crittenden*, and *Mollie Adams*.

By Senator EDMUNDS:

Q. Are those statements which you have filed in your office?—**A.** Yes, sir; they are copies of the depositions of the masters that I took and forwarded to the Department.

Senator EDMUNDS. You may make those a part of your testimony.

The following are the papers referred to:

Affidavit of Augustus F. Cunningham as to the Rattler.

I, Augustus F. Cunningham, master of schooner *Rattler*, of Gloucester, being duly sworn, do depose and say:

That on Thursday, July 8, 1886, we sailed from Gloucester on a mackerel cruise. On Tuesday, August 3, having secured a fare of mackerel and while on our passage home,

at 7 p. m., the wind loaded, with two lar Scotia, for shelter.

Just inside of the Terror, Captain Qui came alongside, and harbor. My reply v of owner and captain bidding any of the tions. Boarding us a men on board of us must enter at the cu a revolver and a boar referring to risk the da above short, the main men to fire a revolver on board the Terror, from the Terror, com each of his two men Quigley were that I officer at Shelburne. the mainsail. The bo in Quigley on board in the night, and ord house there. I asked house. His reply was your return show your vessel was in charge of will allow the captain his dory and two men, off in their dory, and if ereboot him as the case did not allow a vessel a why the law was a were a benefit to Ameri At daylight we got un four more armed men ca I went on shore with L. Atwood, who, after in entered and cleared the me to exhibit my clear I would state that wh entered just ahead of u night, which showed p treatment in Canadian Halifax informed me i American vessels. During the whole diff the detention, to the sar but I deem my treatmen international courtesy th Signed by Capt A. F. a passenger.

Affidavit of

I, Joseph E. Graham, u sworn, do depose and say That in the month of J on my passage home fro the treaty of 1818, I stop that place informed me t receiving this informati we were on short rations the straits two of my mer the straits, as I made no Returning through the port Mulgrave, and duly

at 7 p. m., the wind blowing hard, the sea being rough, and our vessel being deeply loaded, with two large seine-boats on deck, we put into the harbor of Shelburne, Nova Scotia, for shelter.

Just inside of the harbor we were how-to by a gun fired from the Canadian cruiser Terror, Captain Quigley, and came to anchor. Immediately a boat from the Terror came alongside, and its commander, Lieutenant Bennett, asked why we were in the harbor. My reply was, "For shelter." Taking then the name of our vessel, names of owner and captain, where from, where bound, and how many fish we had, and forbidding any of the crew to go on shore, he returned to the Terror for further instructions. Boarding us again after a lapse of perhaps forty-five minutes, he put two armed men on board of us, asked for our crew-list, and said if I remained until morning I must enter at the custom-house, but if I could sail in the night, to tell his men to fire a revolver and a boat would be sent to take them off. At 12 o'clock that night, preferring to risk the dangers of the sea to the danger of seizure, I ordered the anchor hove short, the mainsail hoisted preparatory to sailing, and told one of the Terror's men to fire a revolver, which he did. Receiving no reply and seeing no signs of life on board the Terror, I ordered the revolver, to be fired again. This brought a boat from the Terror, commanded by Lieutenant Bennett, who boarded my schooner, gave each of his two men on board an extra revolver, and told me the orders of Captain Quigley were that I should not leave the port until I had reported to the customs officer at Shelburne. Upon receipt of these orders, I paid out the chain and lowered the mainsail. The boat went back to the Terror and immediately returned with Captain Quigley on board. He denied the permission given me by his first officer to sail in the night, and ordered me to go to Shelburne and enter, and clear at the custom-house there. I asked him how I should go, as we were 8 miles distant from the custom-house. His reply was, I "don't care, sir, how you go, but you must go there, and on your return show your clearance to me or suffer the consequences." He told me my vessel was in charge of his two men, and to them he gave these orders: "Gunner, you will allow the captain to proceed to Shelburne with the vessel, come to anchor, take his dory and two men, no more, and go on shore to enter; allow them to bring nothing off in their dory, and if a man puts his hand on the wheel to go to sea, chop his arm off or shoot him as the case may require." I asked him if the law was not very strict that did not allow a vessel arriving at night after office hours to proceed before daylight, and why the law was thus enforced. He replied, "To prove that Canadian harbors were a benefit to American fishermen."

At daylight we got under way and started for Shelburne, and Lieutenant Bennett and four more armed men came on board. We arrived at Shelburne about 4:30 o'clock a. m. I went on shore with Lieutenant Bennett and his boat's crew, and woke up Collector Attwood, who, after inquiring of the lieutenant if there were any charges against me, entered and cleared the vessel. On my return to the vessel the lieutenant requested me to exhibit my clearance, which I did, and we were then allowed to depart.

I would state that when we first entered the harbor of Shelburne a Canadian vessel entered just ahead of us, and she was unmolested, sailing at her pleasure during the night, which showed plainly that an American vessel was not accorded the same treatment in Canadian ports as are Canadian vessels, although, as the collector at Halifax informed me in June last, the same laws apply to Canadian vessels as to American vessels.

During the whole difficulty my language was respectful, and I quietly submitted to the detention, to the sarcastic language and overbearing conduct of Captain Quigley; but I deem my treatment and detention severe and unjust, and an outrage upon the international courtesy that should exist between two friendly nations.

Signed by Capt. A. F. Cunningham, and also by Lawson C. Rich, of Canton, N. Y., a passenger.

Affidavit of Joseph E. Graham as to the case of the Crittenden.

I, Joseph E. Graham, master of schooner A. R. Crittenden, of Gloucester, being duly sworn, do depose and say:

That in the month of July last, I think on the 21st day, I was in the Straits of Canso on my passage home from a fishing trip. Thinking I had a right to fill water under the treaty of 1818, I stopped at Steep Creek for that purpose. The customs officer at that place informed me that if I filled any water, my vessel would be seized, and upon receiving this information I immediately sailed without water, and in consequence we were on short rations of water during the passage home. In my passage through the straits two of my men went on shore. I was then continuing my passage through the straits, as I made no stop after leaving Steep Creek.

Returning through the straits on my second voyage, say on August 4, I stopped at Port Mulgrave, and duly entered and cleared, and one of the men who had gone on

shore the previous trip came on board. On my passage home from the second trip, say August 27, while coming through the Straits of Canso, a lack of wind disabled us to stem the strong tide, and to prevent going on shore, we came to anchor at Port Mulgrave. Upon going on shore I was informed that my vessel was seized for landing men and filling water, and a fine of \$400 imposed, which I deposited with the collector of customs. I protested against the payment of said fine, believing that I violated neither treaty nor law, preferring, as my action shows, to put my crew on short water rations rather than do anything illegal.

JOSEPH E. GRAHAM,
Master of Schooner A. E. Crittenden.

We, Robert Sawyer, Robert Jameson, Alonzo Callahan, of the crew of schooner A. E. Crittenden, having knowledge of the facts contained in within affidavit, do swear that within affidavit is true in every particular.

ROBERT SAWYER.
ROBT. JAMESON.
ALONZO CALLAHAN.

MASSACHUSETTS, ESSEX, ss :

SEPTEMBER 4, 1886.

Personally appeared Joseph E. Graham, Robert Sawyer, Robert Jameson, and Alonzo Callahan, and made oath to the truth of the above statement.

Before me.

[SEAL.]

AARON PARSONS, N. P.

Affidavit of Solomon Jacobs as to the case of the Mollie Adams.

I, Solomon Jacobs, master of schooner Mollie Adams, of Gloucester, being duly sworn, do depose and say: That I arrived at Port Mulgrave, Straits of Canso, N. S., on August 31 on my way home from a fishing voyage, in want of water, our water-tank having been burst by the laboring of the vessel caused by the heavy weather during the passage from the fishing grounds; I duly entered at the custom-house and asked permission of the collector to purchase two or three barrels to put some water in for the passage home. He answered that he could not allow us to buy anything, not even the barrels, and if we did, our vessel would be seized. We were therefore obliged to start for home with but 75 gallons of water (which we had in barrels on board) for a crew of eighteen men, for a passage of 500 miles. I protest against such treatment as severe, and if not in violation of the treaty of 1818, certainly in violation of the common charity of mankind. In trying to make some other harbor on our way up the Cape shore in hopes to replenish our scant supply of water, a gale of wind was encountered, which not only prevented our making any port, but caused damage to the vessel and loss of about (\$700) seven hundred dollars' worth of mackerel from the deck and the smashing of two seine boats worth (\$500) five hundred dollars. Had we been supplied with water we should have been offshore with our vessel, and would have been in condition and situation to avoid the damage sustained. By struggling to keep off the rocks we sustained all this damage.

SOLOMON JACOBS.

MASSACHUSETTS, ESSEX, ss :

SEPTEMBER 7, 1886.

Personally appeared Solomon Jacobs and made oath to the truth of the above statement.

Before me.

AARON PARSONS, N. P.

SEIZURE OF THE W. D. DAISLEY.

The WITNESS. I will state that just before coming in here I received a dispatch from Consul-General Phelan, dated at Halifax, October 6, 1886, in regard to the W. D. Daisley, one of our fishing schooners which reads as follows:

W. D. Daisley seized at Souris. Charge, one of crew landed flour at Canso last August. Telegraphed Ottawa to release on deposit to be made here. Will wire you reply.

M. H. PHELAN,
Consul-General.

By Senate

Q. Have you a
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tonnage, engage
up to June 30, 18
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The statement

Georges cod-fishing
Grand Bank cod-fishing
Fresh halibut fishing
Shore and bay mackerel
Shore mackerel
Shore fishing
Shore fishing (under 20 to
Greenland halibut
Island halibut

Total

Fiscal year ending
18 registers; 80 enro
licenses (under 20 ton

6 permanent register
1 temporary register
117 permanent enrollm
2 permanent enrollm
1 temporary enrollm

8 license under 20, sa
54 license under 20, sa
6 license under 20, st

40 coasting licenses (en
24 fishing licenses (enr
2 yachts (enrolled)...

21 vessels. 1,919 men.

Fresh mackerel
Fresh cod
Fresh halibut
Fresh miscellaneous

Total

Salt cod
Salt miscellaneous

Total

Salt mackerel
Salt miscellaneous

Total

54,461 gallons cod oil.
\$1,635,440.85 value of f
S. Ex. 113—5

STATEMENTS SUBMITTED.

By Senator FRYE:

Q. Have you any further information to submit to the subcommittee?—A. I have here a statement of the number of vessels, with their tonnage, engaged in the different kinds of fishing; also tonnage returns up to June 30, 1886, and other statements. I will submit these, to be made a part of my testimony.

The statements referred to by the witness are as follows:

How engaged.	No. of vessels.	Tons.
Georges cod-fishing	100	10,378.94
Grand Bank cod-fishing	26	2,161.51
Fresh halibut fishing	38	3,104.87
Shore and bay mackerel	90	7,264.03
Shore mackerel	17	1,079.74
Shore fishing	12	488.77
Shore fishing (under 20 tons)	37	390.52
Greenland halibut	2	159.21
Iceland halibut	7	608.61
Total	395	25,635.70

Fiscal year ending June 30, 1886:

18 registers; 80 enrollments; 77 coasting licenses; 391 fishing licenses; 66 fishing licenses (under 20 tons).

Tonnage return, June 30.

	Tons.
6 permanent registers	373.30
1 temporary register	87.52
47 permanent enrollments	20,669.88
2 permanent enrollments, steam	55.52
1 temporary enrollment, steam	477.58
	<u>29,663.80</u>
8 license under 20, sail, coasting	\$81 55
54 license under 20, sail, fisheries	609 25
6 license under 20, steam, coasting	82 19
	<u>31,436 79</u>
40 coasting licenses (enrolled)	3,804 84
284 fishing licenses (enrolled)	26,448 71
2 yachts (enrolled)	165 94

From February 1, 1886, to September 20, 1886.

231 vessels. 1,919 men. American, 1,896; British, 502; other foreign, 521.

	Pounds.
Fresh mackerel	8,002,650
Fresh cod	5,302,435
Fresh halibut	6,877,473
Fresh miscellaneous	8,226,277
Total	<u>28,408,835</u>
Salt cod	25,601,415
Salt miscellaneous	2,065,988
Total	<u>27,667,403</u>
Salt mackerel	108,794
Salt miscellaneous	541
Total	<u>109,335</u>

54,461 gallons cod oil.

\$1,635,440.85 value of fish and oil.

S. Ex. 113—50

Fish caught in foreign waters.

	Pounds.
Fresh herring	270,000
Fresh cod	173,300
Fresh halibut	67,000
Total	510,300
Salt miscellaneous fish	178,500
	Barrels.
Salt mackerel caught outside of three-mile limit	7,941
Salt mackerel caught inside of three-mile limit	1,255
Value of fish caught outside of three-mile limit	\$35,721 46
Value of fish caught inside of three-mile limit	2,784 00
Total value of fish caught in foreign waters	38,505 46
Paid for bait, supplies, repairs, &c., to foreign merchants	25,731 97

TESTIMONY OF FITZ J. BABSON.

GLOUCESTER, MASS., October 5, 1886.

FITZ J. BABSON sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Fifty-eight years.

Q. Where do you reside?—A. At Gloucester.

Q. What is your occupation?—A. At present I am handling real estate and doing some little literary work; I was formerly collector of the port of Gloucester for seventeen years.

Q. Have you had any acquaintance with the fishing business as carried on at this port?—A. I have.

GENERAL HISTORY OF THE FISHING BUSINESS.

Q. Explain to the committee in your own way the nature of these fishing fleets—how they are fitted out, where they fish, and give whatever facts or information you possess concerning the value to our fishermen of the right to fish within the inshore lines of the British Possessions of North America.—A. I have been present at the hearing of the testimony before this committee yesterday and to-day, and I will say that the testimony I have heard in regard to the fitting of the vessels by those who are practically engaged in that business is substantially true. I would like to make some statements in regard to the history of the fishing business from the time of the first treaty down to the present, and give to the committee as many of my own views as I have in my mind and as many facts as I have become possessed of by observation.

Q. You can go on in your own way.—A. In the first place, the treaty of 1783 between the United States and England defined the rights of the United States upon the land as well as upon the ocean. By that treaty we find that the American fishermen were given the entire right to fish along the shores of the present Dominion and Newfoundland without any hindrance whatever. They were to occupy the same grounds and to have the same rights that they had as colonists.

After the war would like to call position of the British considered to be with our rights and the banks in ever, though by the they appear there had no right to do war of 1812 terminated to harrass The treaty of 1818 treaty Mr. Rush shores of the Dominion deprive our people water, shelter, and Q. By "our people" vessels entirely.

THE TREATY OF 1818.

There is one point with the policy of subsequent to 1818 the of their negotiation rights and privileges the treaty of 1818, provisions of those six or seven years ago. We have right of Canada and Newfoundland by the head of that Government being restricted and of Newfoundland, provide that there 20th of October until entirely debar our people operation to-day, for people use seines for the local law allows, No. 84, May 17, 1880 President Hayes.)

DOMINION FISHERIES.

There is no doubt stimulated after the reason: Their fishermen to that time, and the mackerel fish United States as a principal market for mackerel that towards large fleet of vessels nation of that treaty

After the war of 1812 England repudiated the treaty of 1783, and I would like to call attention to the treaty of 1783 in order to show the position of the English Government at that time in regard to what they considered to be their rights on the ocean. They gave us, together with our rights along the shores, the right to fish on the Grand Banks and the banks in the ocean, over which they had no jurisdiction whatever, though by the language of the treaty jurisdiction is assumed, and they appear there as giving us privileges of that kind, when in fact they had no right to do so. As early as 1815 Great Britain claimed that the war of 1812 terminated our right to the inshore fisheries, and commenced to harass and capture our fishing vessels.

The treaty of 1818 was made after the fall of Napoleon. In that treaty Mr. Rush and Mr. Gallatin conceded the right to fish on the shores of the Dominion, but the language of the treaty was such as to deprive our people of all rights to go into their ports except for wood, water, shelter, and for the repair of damages.

Q. By "our people" you mean purely fishing people?—A. Fishing vessels entirely.

THE TREATY OF 1818 A BASIS FOR SUBSEQUENT NEGOTIATIONS.

There is one point which, I think, is of great importance in connection with the policy of the English Government. In all treaties made subsequent to 1818 they have used the language of that treaty as the basis of their negotiations, and in those treaties have always referred to "the rights and privileges granted to the fishermen of the United States by the treaty of 1818," and have then proceeded to the other privileges and provisions of those subsequent treaties. We have had within the last six or seven years an example of what the language of that treaty conveys. We have rights in common with British fishermen on the coast of Canada and Newfoundland, and those rights in common have been construed by the English Government, through Lord Salisbury, at the head of that Government, at the time of the Fortune Bay trouble, as being restricted and abridged by the colonial laws. The colonial laws of Newfoundland, for instance, in the matter of the herring fishery, provide that there shall be no herring taken by or in a seine from the 20th of October until the 25th of the following April. That would entirely debar our people, even if we had the treaty of Washington in operation to-day, from taking any herring on those coasts, as our people use seines for this purpose, and under the gill-net process, which the local law allows, we could not pursue the business. (See Ex. Doc. No. 84, May 17, 1880; alleged outrages at Fortune Bay; message of President Hayes.)

DOMINION FISHERIES STIMULATED BY THE TREATY OF 1854.

There is no doubt whatever that the fisheries of the Dominion were stimulated after the treaty of 1854 went into operation, and for this reason: Their fisheries had been conducted in boats almost entirely previous to that time, had been carried on in small boats from the shore, and the mackerel fisheries had not amounted to much. But having the United States as a free market, and the United States being the principal market for mackerel, their fisheries were stimulated to such an extent that towards the end of that treaty, in 1866, they had a very large fleet of vessels engaged in the mackerel fishery. After the termination of that treaty those vessels gradually went into other business,

until at last it amounted to very little. But when the treaty of 1873 came into effect then it was that, having our free markets and a knowledge of the value of the mackerel fishery, their fleets increased. I have here some statistics that were gathered by the committee that visited Washington during the last session of Congress, in which I find, from Canadian sources, that in 1873 they had about 402 vessels and about 9,000 boats; that in 1885 they had somewhere in the vicinity of 1,117 vessels and 28,472 boats, an increase of almost 300 per cent. I also find from the same statistics that in 1873 the fishing tonnage of the United States was about 109,519, and in 1884 it was 76,137 tons, a loss amounting to 33,382 tons, or a fraction over 30 per cent.

COD-FISHING OUTSIDE OF NATIONAL JURISDICTION.

It has been assumed by the English Government that we pursued the cod-fisheries inshore along their coasts, but I think that the committee by an examination of the map will see that the cod-fishery is pursued almost entirely on the banks outside of all national jurisdiction. The only use we make of their shores in this fishery is to go in for bait.

BAIT.

That matter of going in for bait is one which has caused a great deal of trouble on that coast. In the Fortune Bay case, when our vessels attempted to take herring for bait, they were driven off by the mob, and they found that it was impossible to take herring or any other fish on that shore, because it deprived the inhabitants of about their only means of living. Newfoundland has no agriculture of any consequence, no commerce, and no manufactures; she has nothing but this fishing, and the people who live along the shores must either have this fishing or must starve. Our people have been in the habit of going there for bait, and it was well known that the inhabitants would rather our people would come there and buy bait than not. But I think it must be admitted that the whole action of the Canadian Government in this direction has largely a political basis. The interests of those poor fishermen are not to any extent represented in their public prints or their parliamentary debates.

HALIBUT.

The halibut fishery at one time was quite extensive on Georges Banks, but at present we do not catch many halibut there, but codfish and haddock and mackerel in their season. Nearly all of the halibut are brought in preserved in ice, and they are becoming a luxury in the market. A few vessels flitch their halibut and salt them in bulk in the vessel. These are smoked, and in this form are fully equal to smoked salmon in flavor and richness.

FRESH FISH.

I wish to say one word at this point in regard to the matter of fresh fish. By the tariff act the language "fish, fresh, for consumption," or "for daily consumption," was intended to refer to fish brought into port to be eaten by the local inhabitants. In 1861, when this clause was inserted in the tariff, we were not packing our fish in ice to the extent we are now, and it was not known to the legislators to what extent this business would grow. This language of the tariff act of that

year has been a time, without, perhaps, have it upon the

By Senator

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Senator EDMUND The WITNESS.

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year has been carried along in subsequent enactments from time to time, without, perhaps, an inquiry into the matter, so that to-day we have it upon the tariff list, "fish, fresh, for daily consumption, free."

By Senator SAULSBURY:

Q. Is the word "daily" used?—A. Yes, sir.

Senator FRYE. It is not "daily"; it is "fish, fresh, for immediate consumption"; that is the present language.

Senator EDMUNDS. I suspect that Mr. Babson has taken the language from some book of regulations, and not the statute.

The WITNESS. I take the language from the Customs and Tariff Regulations of the Bureau of Statistics.

Senator FRYE. I am sure that in the statutes you will find it "fish, fresh, for immediate consumption."

Senator EDMUNDS (to the witness). You can go on.

The WITNESS. The question of immediate consumption, of course, as applied to fish, was construed—and I have so decided in my official character as collector—to mean fish that could be consumed without any artificial process of preservation, that could be consumed immediately upon being landed. The schooner Neskaleta came into this port with a load of halibut. As collector, I imposed duties, under the present tariff, on that halibut as for preserved fish, on the ground that it was not fresh in the sense contemplated by the tariff law when providing that fresh fish should be admitted free. The question was, of course, referred to the Treasury Department, and the decision came that it was to be considered as "fish, fresh, for immediate consumption." The regulation concerning importation of fish is this: that the fish shall be landed, but if it is smoked or salted it shall be dutiable. It would be utterly impossible for the custom-house officials to follow the fish to any other place to see how they were treated or in what manner they were disposed of. Therefore it seemed to be almost an anomaly in the decision that fresh fish after passing out of the hands of the customs officials should be considered free under that clause, in the manner in which the Treasury Department ruled. But still that was the ruling of the Department, and we had to submit to it. I have in my mind, however, a very strong impression that it never was intended by the tariff act to make that disposition of ice-preserved fish.

Senator EDMUNDS. I have referred to the Revised Statutes of 1873, and find that the language is, "fish, fresh, for immediate consumption."

The WITNESS. It has been seen by the committee to-day that the fish when landed from the vessels are certainly three or four weeks old. They cannot, therefore, be fresh fish, and they may be kept six or seven weeks. It has been said here in evidence that Mr. Snow and others have buildings in New York where they keep fish months and months.

Senator EDMUNDS. No doubt the construction of the language would refer to fish unsalted.

The WITNESS. Fish in their natural state and without artificial preservation I should consider fresh fish.

Senator SAULSBURY. "Fresh" is used in contradistinction to "salt," I think.

The WITNESS. Canada imposes a duty of 1 cent per pound on all fish, fresh or salted.

MACKEREL FISHING.

Years ago, when we fished for mackerel with hook and line only, our vessels went into the Gulf of St. Lawrence, and they used to carry

menhaden for bait. The menhaden did not go further north than the Maine shores, and consequently were not available to the British fishermen. The vessels used to carry from 50 to 100 barrels of bait to the bay. It was ground fine, and being of an oily nature would keep near the surface.

Senator EDMUNDS. That is what we call chump.

The WITNESS. Yes, sir. They would throw the bait overboard, and that would attract the fish and keep them together. The vessels would not go any farther from shore than it was necessary to go for the fish. The vessels of the United States used to take a great many mackerel, perhaps, nearer inshore than they do now. But when the seine came into operation, then, of course, the whole system changed. As a rule our vessels use no bait whatever now; they carry seines, and very few indeed have anything to do with the hook.

SEINE FISHING.

In seining operations, as explained, they are obliged to have deep water. I have had numerous statements from the captains of vessels as to injuries to their seines by attempting to seine anywhere near the shore, when we had a right to do so under the treaty of Washington. They have not been able to use their seines to any great extent near the shore, even when the fish have been there.

MACKEREL—WHERE TAKEN.

Speaking of mackerel and where they are taken, in 1881 and 1882 we took so many off our own coast that we had no vessels at all in the Gulf of St. Lawrence. I think we had only one or two, or perhaps three, in 1881, and one in 1882; those are all the vessels we had there to take mackerel in those years. It is very apparent, therefore, that only in such exceptional years as this, 1886, for instance, the gulf fishery is of any value to us. Last year there were some 405,000 barrels of mackerel taken, and only some 26,000 taken in the Gulf of St. Lawrence, only about 6,000 of which were taken inside of the three miles. In regard to the taking within three miles, I will state that some few years ago I suggested to the Treasury Department the propriety of issuing a circular to the collectors of ports calling upon them to procure from the captains of vessels statements as to where their fish were procured and how many were taken within and how many without the three miles. Those statements should be on the files of the Department now. If so, they are correct, and will show very clearly just the amount of mackerel taken within and without the limit.

VALUE OF FISH AS COMPARED WITH COST OF TAKING.

In listening to the evidence to-day I did not hear any of the fishermen or captains of vessels state anything as to the relative value of the fish as compared with the expense of producing them. There is but little doubt—and compilations have been made by various fishermen here in Gloucester—taking into consideration the wear and tear, insurance, a fair rate of wages for the crews, and other expenses, and selling the fish at a fair valuation, that the product of the fish, taken as a whole, will amount to any more than the expenditures. Fish, like any other raw material, are valueless in the ocean until caught. There is another point in connection with this subject which it may be well to consider

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as bearing upon treaties, and that is this: Take a factory, for instance, or a farm, or almost any other kind of business, and we will find that with a certain amount of material we will have certain results. But we are not sure of results in the fishing business. There is no certainty attached to it. It is a precarious business. And as regards Canada being able to deliver anything to us, the fish are not there permanently; they are inside the three-mile limit to-day and to-morrow they are twenty or forty miles off. Then, again, it costs Canada nothing to produce the fish. They are not property in hand. The Canadians cannot agree to deliver any amount; and being such an uncertain quantity, it seems to me that it would be impossible to measure the value of their inshore fisheries, and impossible that they could give any sort of statistics by which we could be assured of any adequate and certain return for anything we might pay for privileges. When I was before the Halifax Commission I found that the general impression on the part of the English managers was that by the increase of duties we would certainly increase the price of the mackerel. The assertion was broadly made that if we added \$10 to the duties on mackerel we should actually add that amount to the price to the consumer.

AVERAGE PRICE OF MACKEREL UNDER DIFFERENT TREATIES.

As that matter has come before the committee, I would say that I have a table, that I compiled myself from the best authenticated sources, of the prices of mackerel. For twelve years, from 1842 to and including 1853, the duties were \$2 in gold per barrel, and mackerel, Nos. 1, 2, and 3, averaged \$10.42, \$7.56, and \$5.06, respectively. Under the reciprocity treaty for thirteen years the gold value was \$13.57 for No. 1, \$9.76 for No. 2, and \$6.37 for No. 3. The average prices for the period between the termination of reciprocity and the treaty of Washington were \$14.16 for No. 1, \$8.31 for No. 2, and \$6.24 for No. 3. The prices for the period from the treaty of Washington to the present time have averaged per barrel \$14.98 for No. 1, \$8.37 for No. 2, and \$5.85 for No. 3.

That will show that the duties that have been imposed under our tariff laws have not had the effect to raise the prices at all. Supply and demand has been the governing cause, as is distinctly shown this year.

LEGISLATION SHOULD BE IN THE INTEREST OF THE PRODUCER.

I wish to make this point very strongly: that Gloucester represents the producing interest. The fish that are sold from the vessels in Gloucester net the fishermen from a half cent, perhaps, up to 2 or 2½ cents a pound. Any future legislation affecting the prices between producer and consumer ought to apply to the wholesale merchant, the retailer, and the transportation company, rather than to the producing fisherman, who earns less than \$300 a year, for it would be a hardship to put him in connection with the details of a trade that might affect him unfavorably, perhaps, in certain seasons, and give a wrong impression as to the cause of the high price the distant consumer may have to pay for his fish.

UNCERTAINTY OF THE FISHING BUSINESS UNDER CONGRESSIONAL LEGISLATION.

When we have a treaty of reciprocity with Canada we simply give them a guarantee for twenty years—I think that is the time proposed in the alleged treaty that has appeared in the newspapers—that they

can pursue their business and know what time they have before them and what they are going to do. But take the case in the United States. We have no guarantee here, only from Congress to Congress, of any certainty of the perpetuity of our fishing business; our vessel-owners who have their money invested in vessels have no guarantee from the United States Government whatever of the perpetuity of their business. Our foreign trade has almost gone from us. The men who compose the crews largely of the vessels engaged in that trade are not the men who emigrate to this country and stay here; they may almost be said to constitute a population with no nationality, giving their allegiance to the best price paid for their service.

OUR NAVY TO BE RECRUITED FROM OUR FISHERMEN.

The United States to-day, as a consequence, has no proper material from which to create a navy except that now engaged in the fishing business. The value of the fisheries as a basis for a navy is sustained by all history of maritime nations, and would receive the indorsement of every experienced officer in our own Navy.

LACK OF CONFIDENCE IN THE FISHING BUSINESS.

If Gloucester, Newburyport, Beverly, Salem, or any of these towns along the coast where I have been could only have a guarantee from the United States Government that the business could be pursued without interference, and that they could have the market of the United States without being subjected to onerous competition, they would feel that it would afford them a reasonable profit, and it would tend largely to inspire confidence in them and increase the business. Confidence is the great thing that is needed to-day. I know the anxiety of our people. I know how they have felt here for years, and of course I can speak understandingly of this matter. I do not know what can be done, unless Congress should pass a law, if possible, to do so—I do not know, but hope it can be done—that for the future the United States will regard all these fisheries as belonging exclusively to ourselves, and they are not to be made the subject of treaty negotiations with any nation. We have our organizations and associations for the protection of things on shore, but at the same time the Government is not expending a single cent for the benefit of these seafaring men. Our coasting trade has never been subject to the competition of foreigners. The fisheries should be placed upon the same basis, and from them both would be constituted a marine force equal to every emergency of peace or war.

BOUNTIES TO FISHERMEN.

There is no class of men so well trained for the sea as these fishermen, and there is no other nation of any consequence in the world that has not for years paid and is now paying its fishermen a bounty in some form. Canada is paying, out of the interest on the \$5,500,000 paid her by our Government, and will continue to pay, a bounty to her fishermen of \$5 or \$10 each. She pays out annually to her fishermen in bounties something like \$200,000 or \$300,000. She has some 60,000 men who are available to England as sailors in case of war, and upon those men England can draw to recruit her navy. As has been stated to-day, these young men who come here from the Provinces you find young, able and willing to work. It would cost at least \$2,000 to raise any one of

those young men without cost and

By Senator

Q. If they do their services in that no man can

SERVIC

Q. You are speaking of war. If they are not they could not fight and have been catching fish. That is almost a natural aspiration to become naturalized regard.

RIGHT

I suppose the case by the United States consideration of the case shows the manner also a permit to treaty of 1818, it is on the coast, under that claim that Canada treaty by passing a law to impose penalties are doing nothing antees of that treaty

Q. Do you not think reasonable regulation distinguish them from fishing, for instance make all proper arrangements but I do not think that our vessels as will custom-house which \$400 if they fail to between Mr. Evarts Salisbury was at the he resisted Mr. Evans one came into poverty was paid. In maintained vigorous Newfoundland could in any disabilities upon the treaty.

Q. Does not the treaty relations?—A. Such relations.

Q. Then the question is—A. Yes.

those young men here, but by their coming we gain splendid seamen without cost and England loses them.

By Senator EDMUNDS:

Q. If they do not get naturalized after coming here, we do not secure their services in case of war with England.—A. Of course we know that no man can command an American vessel unless he is naturalized.

SERVICES OF THE FISHERMEN IN CASE OF WAR.

Q. You are speaking of the value of this fishing education in case of war. If they are not naturalized American citizens, of course they could not fight against their own country, no matter how long they had been catching fish for us.—A. That is true; but they do get naturalized; that is almost a necessity; the best men among them are those who naturally aspire to command vessels, and it is a necessity for them to become naturalized in order to have their ambition satisfied in that regard.

RIGHTS OF FISHERMEN UNDER THE TREATIES.

I suppose the committee are versed in the nature of the papers issued by the United States to our vessels. I have with me here, for the consideration of the committee, what is called a shipping paper, that simply shows the manner in which the men ship on board our vessels. I have also a permit to touch and trade. As we are now acting under the treaty of 1818, it is very apparent that we have our rights there on that coast, under that treaty, to go in for wood, water, and shelter. Now I claim that Canada has no right to abridge any of our rights under that treaty by passing any law, customs or otherwise; nor has she any right to impose penalties for alleged violations of such laws, when our vessels are doing nothing more than they have the right to do under the guarantees of that treaty.

Q. Do you not think the British have a fair right to make proper and reasonable regulations in respect of vessels of this character, in order to distinguish them from trading vessels that might be engaged in smuggling, for instance?—A. I consider that they would have a right to make all proper and necessary inspections through their local officers; but I do not think they have a right to impose any such regulation upon our vessels as will oblige them to report their arrival immediately to a custom-house which may be five or ten miles away, subject to a fine of \$400 if they fail to do so. That question was discussed in the argument between Mr. Evarts and Lord Salisbury in the Fortune Bay case. Lord Salisbury was at that time at the head of the English Government, and he resisted Mr. Evarts's claim. Afterwards, however, when Mr. Gladstone came into power, the demand was acceded to, and \$75,000 indemnity was paid. In the course of his argument in that case Mr. Evarts maintained vigorously that no local law of the Dominion or of Newfoundland could in any way impair the rights of our vessels by imposing any disabilities upon them when acting in conformity with the terms of the treaty.

Q. Does not the treaty provide that they may make reasonable regulations?—A. Such regulations as shall prevent them from abusing the privileges.

Q. Then the question becomes, what is reasonable under the circumstances?—A. Yes.

By Senator SAULSBURY:

Q. Who is to judge of that?—A. The United States and Great Britain, who are the supreme powers and who agreed to that treaty—on the Dominion. They have, however, put their own construction upon it. In former years, under the permit to touch and trade, any fishing vessel could go into a Canadian port, and if she had failed to get a full trip, or had any other reason for so doing, she might partially load with oats, potatoes, or other products of those Provinces, and there was no question whatever in regard to it. We acquired no commercial rights whatever by the treaty of Washington (simply the right to take fish within three miles of the shore). The laws of Canada were the same then as now; we had the treaty right to fish within her jurisdiction; we now, under the treaty of 1818, go in for wood, water, and shelter.

If it is necessary now to report at the custom-house to show the character of our business when we go for shelter, why not then when we went to fish or to buy bait? The treaty of 1818 had been in existence sixty-eight years, and our vessels have exercised their treaty rights under it without customs interference until now. There is a reason for this sudden action. Under the treaty of Washington we received no commercial privileges whatever. They had just as much right to impose these regulations making it necessary for our vessels to report, or to refuse to recognize the authority of the United States as exhibited in permits to touch and trade, as they have now. But this is used at present for a purpose—to force us into a reciprocity treaty. There is no question whatever about it. Their parliamentary debates show it. The United States has provided that a vessel with a fishing license has a right to have a permit to touch and trade, and with such a permit she has a right to go into a foreign port, to a Dominion port, and there and then exercise the same rights that she would have under a register.

Q. She becomes for that purpose a trading vessel?—A. If the captain of a vessel sees fit to change the character of his voyage by the operation of that paper he can, and when he returns to the United States he will have to pay entrance fees and tonnage dues as he would have to do under a register. If he does not use his permit to touch and trade, he has no effect whatever. At the same time vessels which have such permits have a perfect right to go in and buy. The Dominion of Canada, however, has said that she would not recognize this authority of the United States, and it has been set at defiance, and our Government has made no remonstrance. I have made every endeavor I could, as an individual, to get some definition of the rights of our people in this respect, but have never yet been able to do it from the present Administration.

The act of Canada in refusing American vessels, having proper authority from the United States, to trade in foreign ports, (viz: a permit to touch and trade,) is absolute non-intercourse, and should be regarded as such by our Government.

THE HERRING FISHERY.

The herring fishery is pursued almost entirely as a mercantile trading action. Our vessels go there and buy the herring, or hire men to catch them. If that fishing should fail, the inhabitants would have to starve. In the course of my visits to the Dominion I have learned that along those coasts the inhabitants for years and years have had aid from the Government, and that the entering of our vessels to buy bait was a consideration of great value to the poor fishermen along the coast. So, as the taking of herring is concerned it is of no real value to our people.

It is fully as economical as herring as it is to catch herring, as we can have no measure.

Q. You speak of the concurrence of the fish that the inshore have you any measure? I understand people? I understand turn at night. I understand live along the coast a few years ago they offered to sell their houses, boats, and up the business here.

The Prince Edward shores of Nova Scotia buckwheat, and potatoes and thus alternate.

Q. Is there a large occupation?—A. Yes.

Q. I wanted to know the fisheries by Canada. The shores of the Atlantic fishery of 1880. According to the States employed a men.

The Canadian vessels.

The minister of marine department for the fisheries.
Number of men employed
Number of vessels
Number of boats
Value of vessels
Value of boats
Value of nets, &c
Total value of the fishery
Total yield of the fishery

In the matter of the number of foreign vessels port of Prof. G. Brown indeed in ascertaining

It is fully as economical to pay the local operative fishermen for the herring as it is to take them ourselves. Therefore, as a practical fishery, herring, as we obtain them, cannot be considered as a fishery, and can have no measure of value as a fishery concession.

VALUE OF THE INSHORE FISHERIES.

Q. You speak of the inshore fisheries; I think there is a very general concurrence of testimony that has been elicited before us to the effect that the inshore fisheries are of very little value to our fishermen. Have you any means of ascertaining what their value is to the Canadian people? I understand that their fishermen go out in the day and return at night. Is it a valuable fishery to that class of Canadians who live along the coast?—A. Not of great value. I think it is but a very few years ago that an American located on Prince Edward Island offered to sell his whole establishment, consisting of wharves, warehouses, boats, and everything of the kind, for about \$3,000. He gave up the business himself and went away.

FISHING AND FARMING.

The Prince Edward Island people and some of the people along the shores of Nova Scotia do some farming. They can raise turnips, oats, buckwheat, and potatoes, and can also go out fishing from the shores, and thus alternate their farm work to some extent with fishing.

Q. Is there a large number of fishermen engaged in that alternate occupation?—A. Yes, quite a number.

EXTENT OF THE FISHERIES.

Q. I wanted to secure an estimate of the value put upon these fisheries by Canada.—A. In making up what might be called the statistics of the Atlantic fisheries at present I have consulted the census reports of 1880. According to that census the fishery industries of the United States employed about 130,426 persons, of whom 101,684 were fishermen.

The Canadian valuation is as follows:

Extent and value of the Canadian fisheries.

OTTAWA, ONTARIO, May 28, 1886.

The minister of marine and fisheries has laid upon the table the report of the fisheries department for the year 1885:

Number of men employed	59,403
Number of vessels	1,117
Number of boats	28,472
Value of vessels	\$2,021,633
Value of boats	852,257
Value of nets, &c	1,219,204
Total value of the fishing plant	6,697,460
Total yield of the fisheries, 1885	17,702,973

NATIONALITY OF THE FISHERMEN.

In the matter of the nationality of the fishermen we find that the number of foreign fishermen in the United States, according to the report of Prof. G. Brown Goode—and Professor Goode was very thorough indeed in ascertaining all the facts connected with his census report—

excluding the 5,000 negroes and 8,000 Indians and Esquimaux, those who were considered not to be native born, did not exceed 10 to 12 per cent. of the whole number. That is the official report.

I do not know what other points there may be in regard to which the committee may desire information; but if there is any question you wish to ask I shall be very happy indeed to answer it if I can.

INSHORE FISHERIES.

By Senator FRYE:

Q. Did you see the returns where it had been undertaken to ascertain what proportion of the fish were taken inside the three-mile shore line?—A. Yes.

Q. Do you know what they showed?—A. They showed a very small percentage indeed, not more than one-eighth or one-tenth of the catch in the Gulf.

Q. That is, out of the whole catch in the Gulf not more than one-eighth or one-tenth was taken within the three miles?—A. Yes.

THE HEADLAND QUESTION.

The question of the headlands is, of course, one that is, I think, of national importance. Our rights should be settled by the United States asserting and maintaining some position. Our fishermen have been uncertain as to their rights in many cases on account of the lack of any position having been taken by our Government with reference to their rights in those waters, and where there have been disputes our fishermen have had trouble on that account.

SEIZURE OF A VESSEL AT SHELburne.

A very short time ago a report was forwarded to the State Department, through Mr. Steele, the president of the Fisheries Union, in regard to a seizure at Shelburne. I made the report for the captain, who told me that he went into Shelburne Harbor last March, and when he anchored off the quay they seized his vessel, when he had only been in twenty-four hours without reporting to the custom-house. He went in at 3 o'clock at night. The practice here in Gloucester has been that if vessels are here but twenty-four hours they are never expected to make any direct report to the custom-house; if they make a report to the boarding officer it will be sufficient, as per Customs Regulations, and in case of stress of weather it has never been considered right to force vessels to enter when putting into the outer harbor for shelter only. The customs laws of the United States are enforced upon the basis of common sense and common humanity.

THE HEADLAND QUESTION.

By Senator SAULSBURY:

Q. Has there been any claim asserted, practically, by the British Government, which sought to exclude our people from a line drawn from headland to headland, where it was more than three miles from shore?—A. There never has been, except up to the time of the correspondence between Lord Aberdeen and Mr. Everett (May 10, 1845) in regard to that matter. The English Government withdrew from its first position on that question, but has never abandoned the claim.

Q. My question is, do you think we should exclude our fishing from the land, where such a line is drawn?—A. Not at all, so long as our vessels are not excluded.

By Senator

Q. In this matter, do you think the wholesalers; the fishing paper which is in the form in which the fish are disposed of?—Q. That is not the fish are generally sold to men who are known to the fisherman. Q. You do not know of any men who take the fish out of the fishing vessels?—A. Yes.

Q. Do you understand by the wholesalers what I mean?—A. In this matter, when they are sold to the consumer after the fish leave the vessel, there is no question as to the price. The price is increased by the time the fish are sold to the consumer. Q. So far as you are concerned, the consumer at all times pays for the fish of the fisheries is increased by the time about that. In 1845, in the United States, we have taken any other year, the price has been about the same. No man ever got rich by fishing.

Q. If, as you say, the price of fish is so low, how does it demand, how does it affect the men at all, either as a whole or a part?—A. A year or two ago, the price of fish came into this harbor at about \$2.50 per hundred, and \$1.60 and \$1.38 per hundred, the bringing in of the fish, the prices in a particular place, not knowing how, and how large it is going to be, could have the United States.

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By Senator

Q. If, as you say, the price of fish is so low, how does it demand, how does it affect the men at all, either as a whole or a part?—A. A year or two ago, the price of fish came into this harbor at about \$2.50 per hundred, and \$1.60 and \$1.38 per hundred, the bringing in of the fish, the prices in a particular place, not knowing how, and how large it is going to be, could have the United States.

Q. My question is, whether there has been any practical attempt to exclude our fishing vessels from a line drawn from headland to headland, where such a line would be more than three miles from the shore?—
A. Not at all, so far as I know. It has been reported in newspapers that our vessels have been excluded this year from the Bay of Chaleur.

PRICES OF FISH TO THE CONSUMER.

By Senator FREY:

Q. In this matter of fish, I take it that the fishermen alone deal with the wholesalers; that they sell alone to the wholesalers?—A. This shipping paper which I have brought for your inspection will show you the form in which the fishermen ship on board the vessels, and also authorize the disposal of their fish.

Q. That is not the question. To whom do the fishermen sell?—A. The fish are generally sold by the owner of the vessel.

Q. I mean the owner of a fishing vessel; to whom does he sell?—A. To men who are buying—wholesalers.

Q. You do not get at what I am after. The dealings between the men who take the fish and the men who buy are between the owners of the fishing vessels and the wholesalers, are they not?—A. They are.

Q. Do you understand that the retailer's price is affected to any extent by the wholesaler's price?—A. Of course it must be affected somewhat. In this market the retail price for codfish is 7 or 8 cents a pound when they are bought from the vessel for 2 or 3. Of course, after the fish leave the hands of the producer, the owner of the vessel, there is no question at all but that if the prices are increased at all they are increased by the cost of transportation and by the middlemen who handle the fish until they get to the hands of the consumers.

Q. So far as your experience goes, has the duty affected the price to the consumer at all?—A. It has not to any extent. The whole matter of the fisheries is regulated by supply and demand; there is no question about that. The experience of almost forty or fifty years will show that. In 1831, with only about 12,000,000 inhabitants in the United States, we took with hooks about as many mackerel as we have taken any other year—383,658 barrels. The average catch for sixty years has been about 200,000 barrels yearly by the Massachusetts fleet. No man ever got rich by the actual production of fish alone.

HOW THE TARIFF AFFECTS THE FISHING INTEREST.

By Senator SAULSBURY:

Q. If, as you say, the price depends entirely upon the supply and demand, how does the tariff question affect the interests of the fishermen at all, either as protecting them or otherwise?—A. I will tell you. A year or two ago, all at once, some twenty or thirty English vessels came into this harbor. Before their arrival fish had been selling at about \$2.50 per hundred pounds; they ran the prices down to about \$1.60 and \$1.38 per hundred pounds, I think. It is the spasmodic influx, the bringing in at unexpected times, you may say, that affects the prices in a particular case. Then there is the want of confidence, the not knowing how, as you might say; competition is going to come and how large it is going to be; that also affects the people. If our people could have the United States for their market, without intervention from

foreigners, Gloucester would send out 1,500 vessels, whereas she now has less than 500.

Q. I am fully aware that prohibition would afford protection to American fishermen; but I ask whether the present tariff does afford any protection to the fishermen here, if the law of supply and demand regulates the price?—A. It does in this way, as I say: If Canada had our free markets, such a condition of things would stimulate, as it always has done, the building of vessels and retention of their people at home; while, on the contrary, if we have protection, and are assured of it, our vessels will be built here, and foreigners will come here and go fishing, and our business will increase. In other words, we will do the business instead of foreigners doing it. Canada has had five and one-half millions of dollars paid her for nothing in the last twelve years. She has had nearly six millions more remitted in duties. She has had, and is having to-day, our free-markets for her ice-preserved fish, worth hundreds of thousands of dollars to her yearly. She is allowed with perfect impunity to place her own construction on treaties, to limit our rights, to seize and fine our vessels for alleged violation of the technicalities of local laws, and set at defiance the official marine documents of the United States, while our own fishermen ask only for the same tariff protection that is afforded every other producing industry in the country, and no special privileges whatever, and beg and pray they may not be slaughtered by their own Government; and this is their only plea, while their business affords the Government its only power on the ocean.

Q. You mean by protection the exclusive right to use our market?—A. The exclusive right at least that the present duty and a duty on fresh fish would afford. This is a national question. It is a matter almost of self-preservation. I feel really that the United States should look to its fisheries and its coasting trade for its marine power, and that in no other way can it be sustained unless our people have that guarantee.

Q. I am not considering the question as to the prohibition of foreign vessels coming here. What I desire to know is whether, in your opinion, the existing tariff upon salt fish does in fact afford any relief or protection to American fishermen?—A. I think it does. It really gives them that confidence which they actually need, and the margin of duty gives them something of an equality with the Canadian producer.

BRITISH COMPETITION.

Q. Does it operate at all to exclude the Canadian fish from our markets?—A. Not when the supply here is short. If the supply here is short they can afford to pay the American duties and bring in their fish.

Q. But if the American supply is liberal, then you think they would not send so many?—A. The American fleet is large enough at present to regulate the price of fish. Here come two vessels into Boston Harbor, we will say—one American and the other Canadian. They have 500 barrels of mackerel each, of the same quality, taken at the same place. The American sells his mackerel at the same price as the other, at \$10 per barrel, making \$5,000. He takes his money and goes about his business. The foreigner has to take his \$5,000 and go up to the custom-house in Boston and pay \$1,000 duties. The difference between these two operations is very apparent. The British vessel, after paying duties, cannot make so much as the American, and our fishing business is stimulated to that extent. The original wholesale buyer does

not ask the transport because the English transportation means. As long, therefore, and the supply of consumer; but let come from Canada the consumer will

Q. The British provided the expenses by us is to the effect outlay for wages, I tion about that.

Q. If that is true compete with us?—the duties and com- naked question of v say it is not. But ing what would com our fishermen are g been decreasing, wh which they had our have our free mark- ous gained.

Q. Do you know v since the 1st of Jan to-day.

Q. Whether it is i present tariff law?—Nova Scotia alone 1 fleet for that small p

By Senator E

Q. I wish you w hanging on the wal that have been spo received them from hi

Q. Have you comp substantially identical the same. The Two maps here

TESTI

WILLIAM A. WI

By Senator E

Question. What is

Q. Where do you r

Q. What is your oc Fish Commission, also

not ask the transportation merchant \$2 more for the English mackerel because the English captain paid \$2 per barrel duties, neither does the transportation merchant ask the retailer or the retailer the consumer. As long, therefore, as the American fishermen, by their own competition and the supply of fish, regulate the price, the duties will not affect the consumer; but let the American fleet disappear and our supply of fish come from Canada, she will have a monopoly, and, duties or no duties, the consumer will have to pay her price for his fish.

Q. The British vessel-owner cannot make so much, of course, provided the expenses of his catch are as great. But the testimony taken by us is to the effect that there is a very considerable difference in the outlay for wages, living expenses, and the like.—A. There is no question about that.

Q. If that is true, might they still not afford to pay the duty and compete with us?—A. I take the ground that they can afford to pay the duties and compete with us to some extent. But if we consider the naked question of whether the price of fish is increased by the duty, I say it is not. But taking the surrounding circumstances and considering what would come from the effect of having those duties, then I say our fishermen are going to hold their own or increase. Our fleet has been decreasing, while theirs has been increasing under the system by which they had our free markets. On the contrary, when they did not have our free markets the figures show that their fleet decreased and ours gained.

Q. Do you know whether their fleet is now increasing or decreasing since the 1st of January last, for instance?—A. No, I could not say to-day.

Q. Whether it is increasing or diminishing since the operation of the present tariff law?—A. I have not at hand the Canadian statistics. Nova Scotia alone had 143 schooners built in 1883. That is a large fleet for that small province.

IDENTIFICATION OF MAPS.

By Senator EDMUNDS:

Q. I wish you would state whether these two admiralty charts now hanging on the wall of this room are a duplication of the two charts that have been spoken of to-day by Mr. Wilcox.—A. They are. I received them from him.

Q. Have you compared them heretofore, so as to know that they are substantially identical?—A. Yes, I should say that they are substantially the same. They were all prepared at the same time, I think.

The two maps here referred to are filed for the use of the committee.

TESTIMONY OF WILLIAM A. WILCOX.

GLOUCESTER, MASS., *October 5, 1880.*

WILLIAM A. WILCOX sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Forty-seven.

Q. Where do you reside?—A. Gloucester.

Q. What is your occupation?—A. I am agent of the United States Fish Commission, also manager of the American Fish Bureau.

Q. How long have you been engaged in the fish business?—A. Since 1873.

Q. What branches of the business have you been in since that time?—A. The same that I am in now since 1874.

Q. Describe what you do.—A. It is my duty to keep a statistical record of the arrival and receipts of all vessels in Gloucester engaged in the fishing business; I have done that since I have been here, a year ago last January; also, through correspondents and agents at all other ports, from Prince Edward Island, on the extreme east, as far as Philadelphia, on the south, to ascertain the arrivals and receipts at other ports; also to ascertain all general information, where the fleets are, what they are doing, with what success they are meeting, as well as to secure all the statistics possible both here and elsewhere.

Q. So that it has been your duty to get all obtainable information in connection with your position in the Fish Commission of the United States and the American Fish Bureau, as it comes to your knowledge from time to time, as to the whereabouts of fishing vessels, what they are doing, with what success they are meeting, &c.?—A. As far as possible, yes.

Q. Have you kept records and made tables of this information?—A. I have. I have the name and cargo of every vessel that has arrived in Gloucester since I have been here, since a year ago last January, and a daily record from all the other leading ports, as I have received them from day to day.

Q. Do you compile these records so as to show the yearly returns of cargoes?—A. I compile them, so far as Gloucester is concerned, once a week, showing the arrivals from the various fishing grounds; I also compile monthly, quarterly, semi annual, and yearly statements at the close of the season.

STATEMENT CALLED FOR.

Senator EDMUNDS. We should be glad to have you make a tabulated statement, if you will be kind enough, at your convenient leisure, which you can send to me hereafter, unless you have it made now, of the results of these fishing operations since you began to keep this record, as to the quantity of fish taken by American vessels and by foreign vessels, the places where they were taken by American vessels, whether inshore or offshore, and the value of those fish; in short, a summarized statement of information bearing upon the points you have heard us discussing here.

The WITNESS. I shall be pleased to do so. So far as my work here is concerned, since I have been here in Gloucester, everything has been reported to the United States Fish Commission, at Washington.

Q. How long have you lived in Gloucester?—A. Since a year ago last January.

Q. Where before that?—A. In Boston.

Q. What business were you in in Boston?—A. I have been in the same business since 1874.

Q. Did you fit out vessels?—A. No, sir; I have only just been engaged in this business of collecting and compiling statistical and general information in regard to the fisheries.

THREE-MILE LIMIT.

Q. Perhaps you can tell now—you have been so long in the business of obtaining statistical information of the details of American fisheries—

ice—what proportion of the fishing vessels have been taken say. As far as other provincial the gross catch is closely in regard

MACKEREL CATCH.

The gross catch of mackerel.

Q. Where?—A. England fishing for mackerel taken from the Prince Edward Island. What proportion I could not state.

Q. You have no way, from conversation any at all, or very

Q. Did you hear of have always heard taken near the shore danger of tearing side than inside.

Q. Did you help showing the fishing Senator EDMUNDS would file with the

Q. Who helped you steamer Novelty.

Q. Has everything Joyce been put on the information, and belief? expert on the fishing He was a practical fisherman, and also assisted the expert to lay out

Q. When were they about January. All

Q. What would be A. Five or six dollars

By Senator EDMUNDS.

Q. Will your statistics be, sir; the fresh fish reception of fresh halibut here, and I have no doubt have paid attention to Senator EDMUNDS. He belongs to us.

tee—what proportion, in your opinion, of the mackerel caught by American fishing vessels in the Gulf of St. Lawrence and adjacent waters have been taken within three miles of the shore?—A. That I couldn't say. As far as the amount of mackerel taken off the Nova Scotia and other provincial shores is concerned, it is not far from $4\frac{1}{2}$ per cent. of the gross catch for the last five years. I have kept the accounts very closely in regard to that.

MACKEREL CAUGHT IN AMERICAN AND PROVINCIAL WATERS.

The gross catch from 1881 to 1885 amounts to 1,797,583 barrels of salt mackerel.

Q. Where?—A. Landed in the United States, caught by the New England fishing fleet from all ports; of which only 75,711 barrels were taken from the provincial waters off Nova Scotia and Prince Edward Island. What proportion of that was taken within the three-mile line I could not state.

Q. You have not the means of knowing?—A. Except in a general way, from conversation with fishermen; they would always say scarcely any at all, or very little.

Q. Did you hear them say that before the 1st of July, 1885?—A. I have always heard them say that, as a general thing, very few fish were taken near the shore; that the water was shallow, and there was great danger of tearing the seines; and that the fish were more apt to be outside than inside.

CHARTS.

Q. Did you help make these charts hanging on the wall of this room, showing the fishing grounds, &c.?—A. Yes, sir.

Senator EDMUNDS. One of them, containing the tables, I wish you would file with the clerk of the committee.

Q. Who helped you make these charts?—A. Captain Joyce, of the steamer Novelty.

Q. Has everything that has been put on there by you and Captain Joyce been put on truly and according to your best knowledge, information, and belief?—A. As far as we knew. I do not pretend to be an expert on the fishing of the Provinces; I just assisted Captain Joyce. He was a practical fisherman, and he outlined it and I put in the statistics, and also assisted in making them; but Captain Joyce mainly was the expert to lay out the ground. I have never been over the ground.

Q. When were these charts made?—A. Last winter, I think, along about January. All the statistical portions and comparisons I made.

Q. What would be the expense of getting duplicates of these charts?—A. Five or six dollars.

SALT AND FRESH FISH.

By Senator SAULSBURY:

Q. Will your statistics show the proportion of fresh to salt fish?—A. No, sir; the fresh fish I have paid very little attention to, with the exception of fresh halibut, for the last year and a half, since I have been here, and I have no statistics of fresh fish at all that are complete. I have paid attention only to salt and dried fish.

Senator EDMUNDS. Later on we will examine Mr. Earle at Washington. He belongs to the Fish Commission; he will furnish statistics for us.

By Senator FRYE :

Q. I understood you to say that these minutes on one of these charts were taken from statistics?—A. Yes, sir.

MACKEREL CATCH FOR 1885.

Q. Is the statement correct immediately below these words: "Mackerel catch by the United States vessels for the season of 1885"?—A. That is correct so far as I know.

Senator FRYE. That statement is as follows:

Amount of mackerel taken within three miles of the provincial shores	Barrels. 6,564
Total amount taken in the Gulf of St. Lawrence	27,633
Amount taken off the United States coast	37,515
Total catch by the American fleet	40,146

Q. That was during the continuance of the treaty and the restoration of it by Mr. Bayard?—A. Yes, in 1885. This also includes the total catch of fresh mackerel for the season. That is made up from the returns by the captains of vessels at the close of the season.

OCTOBER "CENTURY" ARTICLE IN REGARD TO GLOUCESTER FISHERIES.

Q. Who is Captain Collins?—A. Capt. J. W. Collins is at present employed by the United States Fish Commission. He is captain of the Fish Commission schooner Grampus.

Q. What is his special business?—A. He is subject to the orders of Professor Baird.

Q. Engaged in the fishery business all the time and gathering statistics?—A. Sometimes he is in Washington engaged there, and sometimes at sea, wherever he is ordered by the United States Fish Commission.

Q. Did you read the article in the Century written by him?—A. I did.

Q. What number of the Century?—A. October, 1886.

Q. Did you examine the article carefully?—A. I did not. I glanced over it very hurriedly, coming down on the train from Boston.

Q. Do the statements contained therein agree with the knowledge you possess, so far as you have investigated?—A. From glancing over it hurriedly I should say they do.

Q. It is a pretty important statement of facts, is it not?—A. Yes, I consider it so.

Senator FRYE. Mr. Chairman, I move that the chairman of the subcommittee be requested to communicate with Captain Collins, and have him verify the article contained in the October number of the Century on this question, and that after being verified it be admitted as evidence before the committee.

Senator EDMUNDS. If there is no objection an order of that kind may be entered on the minutes.

BENJAMIN I

By Senator

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TESTIMONY OF BENJAMIN H. SPINNEY.

GLOUCESTER, MASS., *October 5, 1886.*

BENJAMIN H. SPINNEY sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. I will be twenty-nine next December.

Q. Where do you reside?—A. I reside at Gloucester.

Q. How long have you lived here?—A. I was born and brought up here.

Q. What is your business?—A. Fishing.

Q. Have you been in that business all the time?—A. Yes, sir. I have been more extensively interested in the business during the last eight years.

Q. How many vessels have you?—A. I have three.

Q. What kind of fisheries are they engaged in?—A. I have got one to Georges, and one to the Banks salt fishing, and one catching halibut.

CASE OF THE EVERETT STEELE.

Q. Have you had any of your vessels interfered with by the people of the Provinces?—A. The Everett Steele was seized in Shelburne.

Q. I suppose you were not on her at the time?—A. No, sir; I was not on board.

Q. What was the name of the master?—A. Charles H. Forbes.

Q. Where is he now?—A. He has gone home.

Q. Where is his home?—A. He lives in Nova Scotia.

Q. Is he an American citizen?—A. Yes, sir.

Q. You can state what happened to the Everett Steele, according to your information.—A. The vessel fitted out here and sailed, I think, on the 23d of August. She was fitted for three months, and supposed to make a voyage for the rest of the season.

Q. What kind of fishing was she going on?—A. She was going on a salt trip.

Q. For mackerel, or cod?—A. Codfish. She was full of salt and had her provisions and all her gear for the necessary length of time it was expected she would be out. She sailed, and she baited at the Isle of Books, and went down. She fished, I think the master said, four or five days, when his water got out or nearly so, and he went in. I believe his pumps also got out of repair and a few of his blocks, and he went in to Shelburne to fill up his water and repair his pumps and blocks. There he was seized by this Captain Quigley, I believe his name is, and kept there about twenty-four hours. There was a part of the crew left; they wouldn't stop; that is, if they couldn't go on to make up a voyage. They had been fishing off the shore about 15 miles, and when it came bad weather they ran in under Sand Point; that is, about 9 miles from the custom-house; and Captain Quigley said it would be necessary for them to report, and he should compel them to every time they came in. The vessel has always been down there, and days before had the privilege of going in in bad weather and lying there until it was suitable weather to fish. So the men they mutinized, the theory that if they couldn't have the shelter of the port they couldn't remain any longer, and part of them left. He brought his

vessel home, and had five men left besides himself when he got here. The voyage had to be abandoned.

CANADIAN PORT REQUIREMENTS.

Q. Had your vessels been required to report before this year?—A. No, sir; not under a fishing license. I had one schooner that went herringing to Newfoundland one winter, and she carried some stuff down to trade, and whatever port she made it was necessary to report.

Q. I suppose that vessel had a permit to touch and trade?—A. Yes, sir.

Q. But when your vessels are merely going on a fishing trip under a fishing license and want to go in for shelter or repairs, they have never been required, as I understand you, to report until this case?—A. No, sir.

TESTIMONY OF CAPT. EDWIN JOYCE.

GLOUCESTER, MASS., *October 5, 1886.*

Capt. EDWIN JOYCE sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Thirty-one.

Q. Where do you reside?—A. Swan's Island, Maine.

Q. What is your occupation?—A. Fishing; mackerel seining.

Q. How long have you been in that business?—A. About fourteen years.

Q. Have you been fishing this year?—A. Yes, sir.

CASE OF THE MORO CASTLE.

Q. What vessel have you been in?—A. The Moro Castle.

Q. Is that a schooner?—A. Yes, sir.

Q. About how many tons?—A. About eighty-four tons.

Q. Have you been interfered with or molested by the Canadians in any way?—A. Yes, sir; they took our schooner about the 11th of September, at Port Mulgrave, in the Strait of Canso.

Q. You were in the Strait of Canso at that time?—A. Yes, sir.

Q. What were you doing?—A. We were going through there; had some idea of coming home; didn't know whether we would or not certainly.

Q. Were you under way?—A. We had been anchored about fifteen minutes when we were seized.

Q. What part of the strait were you in?—A. We were about half-way through.

Q. What did you anchor for?—A. The tide turned against us, and the wind was moderate and calm, but we had to tow in to keep from going back again to where we had come from. We towed some hour and half, I guess, with a boat, to get in.

Q. That is, towed with your own boat?—A. Yes, sir.

Q. Was that the only reason why you anchored?—A. Yes, sir; that was the reason why we anchored.

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Q. Had you undertaken to have any communication with the shore?—

A. No, sir.

Q. What took place there after you had anchored?—A. As soon as we had got the sails furled the collector of customs come aboard and says, "I am going to inform you, captain, that I have seized your vessel in the Queen's name." He says, "It isn't anything that you have done, but it is something that was done in 1884." That is what he stated at that time.

Q. What did he say was done in 1884?—A. He said he didn't know what it was; he said the claim was sent from Chester, Nova Scotia, and he had orders from Ottawa to seize the schooner if she came there, but what the claim was he didn't know.

Q. What happened then?—A. He then ordered us to take the schooner across to Port Hawkesbury; that is on the other side of the Strait. I told him if it was for something I hadn't done, that I should refuse to do it; if he wanted the schooner taken over he would have to take her over that night, as we had just towed in. But he said it would be some expense for the owners for him to put on a gang to take her over. I told him if he would wait until morning, and there was a breeze of wind to do it at that time, to save expenses to the owners we would take her across.

Q. How far across?—A. About a mile and a half, I think.

Q. Does the tide set pretty strong through that strait?—A. It does in the spring; I think there is about a knot and a half or two knots tide any time.

Q. Did you stay all night there where you lay?—A. Yes, sir; we did. He had two of the cutter's men and the custom-house officer, Mr. Bureau, stop aboard all night.

Q. What took place in the morning?—A. In the morning we took her across and anchored her at Port Hawkesbury, with only one watchman aboard at that time. The cutter came up and he had another watchman put on board the schooner, and we lay there some three days and the cutter lay alongside of us. I guess this was Saturday night. Monday morning I telegraphed to her owners in Gloucester, and they telegraphed back that they had telegraphed to the consul-general at Halifax, and for me to act under his advice.

Q. What was this armed cutter that lay alongside of you?—A. It was an armed cutter; one of these sailing cutters that they have down there this season, named the Houlette.

Q. How long did you lie at Port Hawkesbury, and what took place?—A. We lay there, I think, some four or five days before they took the schooner in to the wharf; they then took her in to the wharf, and the cutter left as soon as we were taken in. We lay a couple of days to the wharf before they stripped the schooner, and then the custom-house officer said he was going to take the schooner and shut her up, and that the consul general would have to look out for us.

Q. What did you do then?—A. So I went and saw Consul Clough. I had seen him before, and he made arrangements to send us home on the steamer.

Q. So you had to leave your vessel and come home?—A. Yes, sir. While I was there I wanted the collector of customs to give me a statement in writing as to what he would release the vessel for, and I would send it home to the owners. He said, "There is no need of that; you can telegraph to the owners, and they will do all that is needful." I got him to figure it up to see what she could be released for, and finally he

said that on the claims against her they would release her on deposit of \$1,600.

Q. What did you have on board at that time—anything besides your outfit?—A. We had about 39 barrels of mackerel.

Q. How long had you been down in those waters?—A. About five weeks.

Q. Before you left Port Hawkesbury did you learn of what the vessel was accused?—A. No, sir; we couldn't find out. I found out that they had two claims against her this season. This English detective that was there said he had claims enough against the vessel to take her and four just like her, allowing they had done just the same thing.

Q. Did he tell you what that claim was?—A. He didn't tell what it was.

Q. You spoke of two claims made against her this season; what were those? Do you know?—A. One was for getting stores at Tignish, Prince Edward Island, to go home. We were bound home and hadn't enough stores to get home with, and we went in and got some stores, enough at least to get home with, some \$44 worth, I think.

Q. Was that the same trip?—A. No, sir; that was the trip before, in July.

TIGNISH.

Q. Did you pay any harbor and port dues, pilotage, or anything of the kind, at Tignish?—A. No, sir; we did not. There is no harbor there, and I never knew of their having a custom-house there.

Q. What sort of a place is Tignish?—A. It is just a straight coast along there; there is a little boat harbor there that takes, I think, about 6 feet of water, but our schooner draws 10 and 11.

Q. How much of a village is it?—A. There is no village there at all, just scattering buildings.

Q. Any store?—A. Yes, sir; a little store kept by an American fish firm there, by the name of Myrick.

Q. Did you see any custom-house there when you went ashore?—A. No, sir.

Q. Did you see any custom-house officers?—A. No, sir.

Q. Did you see any British flag?—A. No, sir; nothing to indicate a custom-house in any way or shape.

MIRAMICHI.

Q. What was the other thing they said you did this year?—A. They had a claim on us about getting salt out of Miramichi.

Q. What were the circumstances about that?—A. We got some salt out of a Nova Scotia schooner named the Zelia.

Q. Was that in the port of Miramichi?—A. Yes, I suppose so; I don't know. We were, I suppose, some 20 miles from the custom-house. The square-riggers that come here go up the river 20 miles.

Q. You were at the mouth of the river?—A. Yes, sir.

Q. How much salt did you get?—A. We had 15 barrels of salt.

Q. You bought it from a Nova Scotia vessel that had some?—A. We didn't buy it at all; we simply got the salt from a brother of our owner, and I got the salt of him and never paid for no salt. He just simply said for me to tell his brother, and I never paid for the salt, and never took the scratch of a pen for it.

Q. You were in need of a little more salt?—A. Yes, sir. They had been there the year before and exchanged salt with each other, and he said it was all right.

Q. Did you ship?—A. No.

Q. And you or any customs?

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Q. Did you have a permit this year to touch and trade with that ship?—A. No, sir.

Q. And you did not in either of these instances see any custom-house or any customs officer?—A. Nothing of the kind.

Q. Did you go into Miramichi for the purpose of getting salt?—A. No, sir; we were in there for shelter.

Q. Who are your owners?—A. Lorin B. Norse was the owner of the schooner I was in.

Q. You say his brother's schooner happened to be there; was she lying there?—A. Yes, sir; she was in for shelter the same as we were.

Q. She was fishing?—A. Yes, sir; seining for mackerel.

Q. She was a Nova Scotia vessel?—A. Yes, sir.

Q. You in fact, then, borrowed that amount of salt from the brother of your owner?—A. Yes, sir.

Q. And those are the only two things that you were informed of while you were there that are the causes of complaint?—A. Those are the only two things.

By Senator FRYE:

Q. The vessel is there now, is she not?—A. Yes, sir. The American consul, Clough, sent us home.

TESTIMONY OF ORIN B. WHITTEN.

PORTLAND, ME., *October 6, 1886.*

ORIN B. WHITTEN sworn and examined.

By Senator FRYE:

Question. Where do you live?—Answer. I live in Portland.

Q. How long have you resided here?—A. Twenty years.

Q. What is your business?—A. Fish business.

Q. In what direction, or in what capacity?—A. We are owners of vessels.

Q. How many?—A. We have 14 or 15 now that we are interested in.

Q. Are you in business in any other way than the fishing business?—A. That is all.

Q. What is the character of the vessels you own?—A. They are cod and mackerel fishing vessels.

AMERICAN MACKEREL VESSELS AND OUTFITS.

Q. What is the average tonnage of a mackerel-fishing vessel?—A. I should say 60 tons; that is only an estimate, of course.

Q. What do they cost per ton ready for business?—A. I should say that the average cost of a vessel ready for sea would be, with all fishing appliances, about \$10,000. I get this information somewhat from others.

Q. That is over a hundred dollars a ton?—A. Yes, sir.

Q. That includes appliances?—A. That includes appliances.

Q. What would it be without the appliances, ready for fishing?—A. Perhaps about \$8,000.

Q. What is the character of the vessels as to quality?—A. The very best.

- Q. Made of hard wood?—A. Made of hard wood.
 Q. Oak?—A. Oak.
 Q. Made substantial and strong?—A. Made first-class; yes, sir.

CANADIAN VESSELS.

Q. What is your knowledge of the Canadian vessels engaged in the same business? Are you acquainted with them?—A. I am not fully acquainted. I have seen Canadian vessels. They are made mostly of spruce, soft wood.

Q. Have you any idea what they cost per ton as compared with yours?—A. Probably they wouldn't cost half as much as ours.

MACKEREL—WHERE TAKEN.

Q. How many vessels have you engaged in the mackerel fisheries?—A. We have some vessels that go cod-fishing in the early part of the season, and for mackerel in the latter part.

Q. Where have you been in the habit of fishing for mackerel?—A. Mostly on this shore.

Q. How long have you been engaged in it?—A. About twenty years.

Q. During those twenty years you have been so engaged what proportion of your mackerel have been taken in American waters?—A. We never have made much of a business of sending vessels into the Bay; about all our mackerel have been taken here during the last twelve years.

Q. Where here, as a rule?—A. Anywhere from Cape Cod to the Bay of Fundy.

Q. And what proportion of those taken in our waters were taken within the three-mile shore line?—A. As far as my knowledge goes, I think a very small proportion was taken within that limit.

Q. State, as nearly as you can, what percentage.—A. I should judge not over 10 per cent.

SEINES.

Q. What has been the difficulty, during the last ten or fifteen years, of fishing for mackerel within the three-mile shore line?—A. The only difficulty in using a purse-seine is on account of the water being shallow.

Q. It is dangerous to the seines?—A. Yes.

Q. The bottoms are generally rocky on our coast?—A. Yes, sir; they don't like to take the chances with a seine worth from \$1,000 to \$1,200.

Q. Does the same difficulty prevail in the Canadian waters?—A. It does.

Q. So far as your experience extends with the fishermen of Portland, how much of their fishing is done in the English waters for mackerel?—A. Very little.

Q. And during the last fifteen or twenty years what proportion of it has been done within the three-mile shore line since the invention of the purse-seine?

The WITNESS. In the English waters?

Senator FRYE. Yes.

A. Oh, very little indeed has been done within the three miles.

THREE-MILE LIMIT.

Q. If there was a treaty existing to-day by which you had the right to go in the Canadian waters within the three-mile shore-line, would any of your vessels go there to fish?—A. I think perhaps there might

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be localities within that limit where they could fish with perfect safety, but as a general rule I don't think they would make use of the privilege to fish within three miles of the shore.

COD AND HALIBUT.

Q. Where do your vessels take cod?—A. At the Western Bank, mostly, and Quereau.

Q. Do you fish for halibut?—A. We do not.

BAIT.

Q. In fishing in Canadian waters for halibut—I do not mean in waters within their jurisdiction, but off their coast on the Banks—what necessity is there for your fishermen to go into their ports for bait?—A. Not any whatever. All our vessels for cod-fishing use salt bait, which we get here, and about all the fishing done in Maine is done with the use of salt bait.

Q. What kind?—A. Clams; the same as the Nova Scotia people use.

Q. So that that privilege of going to buy bait into English waters is, in your opinion, worth nothing?—A. Not to us here; for what we call the dory fishing, hand-line fishing; that is about all we do here.

Q. You do not trawl?—A. We trawl some, but very little.

By Senator EDMUNDS:

Q. Why do you require a different bait in trawling?—A. On the trawl they use a fresh bait; the trawl extends a long distance.

Q. But if a cod will bite a salted clam at the end of a hand line, why not on the trawl?—A. No doubt he would bite it, but still, where these vessels go they come to anchor and drill for their fish, and they take a long string of gearing and thousands of hooks, and they use fresh bait because they think the fish will take it more readily than salt bait.

By Senator FRYE:

Q. Is there any necessity of going into the ports of Canada to get fresh bait?—A. It is not necessary; they can get it here and take it with them. There are thousands and thousands of barrels caught no further off than Wood Island.

CANADIAN PORT PRIVILEGES.

Q. Do you consider valuable the privilege of going into Canadian ports to buy bait?—A. I do not consider it of any value at all. The vessels that go there with salt bait get their trips a good deal quicker than if they had had to go for fresh bait, because sometimes they have to go a hundred miles for fresh bait, and before they get back to their fishing grounds the bait may spoil. Then, again, it is an inconvenience in this way: When the crews go ashore they almost invariably make drafts on account of certain things they want. So, on the whole, I take it that it would be better for us to send all our vessels with salt bait to the Banks than it would be to depend on fresh bait on the Nova Scotia shore.

Q. Then, so far as the Canadian ports are concerned, other than for purposes of shelter, water, wood and repairs of damages, it would be better for the fishermen of Maine if they were not permitted to go in at all?—A. I think so; I don't think there is any occasion for them going

in for shelter, because our vessels are far from there. Perhaps they might be able to go in in case of a storm, but generally during the fishing season we have no occasion whatever for shelter or water—that is, for our vessels from here.

FREE FISH.

Q. What can Canada give the Maine fishermen, so far as you know, that would be an equivalent for our market to them?

The WITNESS. Our market free to them?

Senator FRYE. Yes.

A. Not anything. I can't see anything that they have to give us to offset the advantage they would gain by a free market here.

Q. Do you know anything that would be valuable to the Maine fishermen that could form the basis of a treaty with Canada reciprocal in its character?—A. I do not.

VESSELS AND OUTFITS.

Q. What does your outfit cost?

The WITNESS. That is, just the provisions, you mean, or the barrels, salt, and everything?

Senator FRYE. Take the whole outfit.

The WITNESS. The seines, too?

Senator FRYE. Leave them out. The fitting out you make for a voyage.

A. For a Bank trip they might cost, taking the dories, the salt, bait, and lines, \$1,200.

Q. And does that include provisions?—A. Yes; I think \$1,200 to \$1,500 would perhaps cover the whole.

Q. How would the Canadian outfit compare with yours in cost?—A. I cannot say.

Q. You do not know?—A. Only what I gather from what I have heard.

Q. You may state from the best information you have from fishermen.—A. From the best information I have from fishermen they can fit a great deal cheaper than we can; they live differently.

Q. More cheaply?—A. Yes, sir. We are a sort of progressive people, and even the fishermen want the best there is, so that we have to fit our vessels with the very best possible.

PROVISIONS.

Q. What do you put on board your fishermen for food?—A. The same almost as we have at hotels.

Q. Coffee and tea?—A. Yes, sir; and pork. When they live at home they live off the market; when they get in off a trip they generally go to market for fresh food, vegetables, &c. Some even take condensed milk, tamarinds, apples, and everything of that kind.

COMPENSATION OF FISHERMEN.

Q. On what terms do your vessels engage in fishing?—A. They say on what we call half-line; that is, the owners of the vessels furnish the vessel with everything required to catch fish, and the crew have one-half the proceeds of the fish, and out of their half they pay the cook wages and one-half the bait bill.

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Q. When do they get their pay?—As soon as the fish are sold. For instance, if a vessel comes in to-day with mackerel, just as soon as they are sold the crew, as a general thing, are settled with; or, if they leave before the mackerel are sold, they are settled with when they return.

Q. Are they paid in cash?—A. They are.

Q. Do you know whether or not the Canadian fishermen are paid out of stores?—A. I am told that they live out of the stores altogether.

EFFECT OF DUTY UPON THE CONSUMER.

Q. When your vessels come in they sell their cargoes of fish to the wholesaler, do they?—A. Yes, sir.

Q. And then what becomes of them?—A. If they are codfish they are cured and put into the market, and then they are shipped all over the country. Our mackerel are packed ready for market, and then they are shipped all over the country.

Q. Do you deal to any extent in fresh fish?—A. Not any.

Q. What, in your opinion, is the effect of the present duty upon the price of fish to the consumer?—A. It has no effect whatever.

Q. If there is any effect it is between the fishermen and the wholesaler?—A. Yes, sir; I do not think the consumer has to pay any more with duty than he would without.

Q. Have you ever noticed that the duty had increased, or that the absence of duty has decreased, the price of fish to the consumer during the last fifteen years?—A. I don't know that the duty has anything to do with it whatever. In fact, it is strange that salt fish were never so low as they are at the present time with the duty on.

FREE FISH.

Q. Then, if the duty does not affect the prices of fish to the consumer, what is your objection to opening our markets to the Canadians and allowing them to bring in their fish free?—A. Well, I believe that New England is sufficiently equipped now so that we can furnish this country with all the fish it wants. I believe if you open this market free to the Canadians it will encourage them to increase the number of their fishermen. They, of course, can feed their men cheaper than we can, and as a general thing they can catch their fish cheaper than we can; and if they come into this market free it is going to have some effect upon the amount of fish we bring in. I believe this is an industry that is worth protecting. Here are millions of dollars invested in this business, and I believe New England is entirely able to furnish all the fish required, and so I don't believe we ought to do anything whereby we will increase an industry to foreigners at the expense of our own people. You can see that the materials entering into the construction of their vessels cost so much less with them than with us, and their manner of living is so much less costly; and taking everything into consideration, with the tariff of duties that we have to pay upon everything that enters into the construction of our vessels, it would seem to me to be impossible for us to compete with them if they had the privilege of bringing their fish in here free. It would have a tendency to increase their fleet; for the last eight or ten years their fleet has actually increased about 33 per cent. and ours has fallen off. Of course there has been a cause for this.

FISHERY BUSINESS OF GLOUCESTER AND PORTLAND.

Q. That was under the influence of the treaty of 1871?—A. Yes, sir. This is a very large business. You have been to Gloucester and have seen the extent of it there. We consider ourselves second in the fish business, and year before last we came, I think, within 8,000 barrels of taking as many mackerel as they did at Gloucester. We took 101,000 and they 109,000.

DUTY ON SALT FISH.

By Senator EDMUNDS:

Q. Have any Canadian salt fish come to Portland within a year?—A. Yes, sir; most every month they come here.

Q. Both mackerel and cod?—A. Both mackerel and cod.

Q. Who do you think bears the duty that is paid on cod now? Does it fall on the Canadian shipper, or fisherman, or does it fall on the wholesale dealer who buys it of the Canadian?—A. I think it falls on the one who brings it here.

COD AND MACKEREL FISHERIES OF MAINE.

By Senator FRYE:

Q. How many fishing vessels do you think there are in Maine engaged in the mackerel and cod fisheries?—A. I estimate, from my best knowledge, taking all there are in the fishing business, perhaps 600 sail.

Q. They average about how many men to a vessel?—A. Ten.

Q. Do not yours average more than 10?—A. Yes, sir; I was taking small ones and all. Our mackerel catchers will average about 15 or 16.

NATIONALITY OF FISHERMEN.

Q. What proportion of your men are American citizens? I do not mean born here.—A. Take our mackerel catchers, and I think that I can safely say that seven-eighths of them belong here in Maine. Our cod-fishermen may be somewhat different, because we have some that come from Nova Scotia to ship in our vessels; still, when they come here a great many of them remain and become citizens. Our mackerel fishery is more in the hands of our own people.

Q. What kind of sailors are these?—A. Good sailors; no better. I think I have got vessels that haven't a single man on them but American.

FREE FISH.

Q. What, in your judgment, would be the effect of a treaty giving our markets free to Canada for 15 or 20 years?—A. I think the business would have to be abandoned by Americans.

Q. Where would the fishermen go?—A. They would go to Nova Scotia. You would find that the fish would become a luxury, instead of cheap food as they are now, for it is almost impossible for us to get along now. In fact, the duties are not as high as they ought to be. There ought to be a change made in some way, it seems to me, because the duty of \$2 has not a sufficient effect in keeping them out.

Q. The duty is very low?—A. Very low. Fifty-six cents a quintal is a small object, of course, but it is not enough to pay for the difference that we have to have between our methods of fitting and furnishing our vessels and theirs.

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FRESH FISH.

Q. Has the market for fresh fish been increasing very heavily?—A. Very much.

Q. Have you noticed that it has had any effect on the market for salt fish?—A. Perhaps it may have had some little effect, but still, all the fish that are caught are sold after a while.

Q. Have not the methods of preserving fish fresh and putting them upon the markets changed entirely within the last 10 or 15 years?—A. They have entirely.

FROZEN FISH.

Q. They are now taken in refrigerator cars, after having been frozen and transported all over the country?—A. Yes, sir.

Q. So that our fish may be preserved by freezing or by being packed in ice almost as well as by being cured?—A. They can be preserved a long time. I suppose they can be carried a fortnight, and I don't know but longer, and by a certain process they can be preserved a year, in the ice refrigerators.

Q. If a cargo of fish comes in and is entered at Portland, is there any difficulty about transporting them to the city of Lewiston and there having them all cured?—A. None at all.

Q. So that the law is very easy to be evaded?—A. Yes, sir.

DUTY.

Q. What, in your opinion, ought to be done as to fresh fish?—A. I don't know as I am prepared to say; perhaps others know more about that than I do.

Q. I mean as to the imposition of a duty.—A. I think there ought to be a duty upon fresh fish.

Q. That is, upon fish landed in a frozen condition?—A. Yes, certainly; they are really as much preserved as salt fish.

EXPORTATION OF FISH.

Q. Do you export any fish?—A. We do some; that is done mostly through commission merchants; the fish go to the West Indies principally. We make a great many of our fish for export.

Q. Is there any country to which you export fish in which you are not met with a duty?—A. We do not do enough of that business to be acquainted with it.

CLOSE SEASON.

Q. I want to ask you your own opinion, and the opinion of the Maine fishermen, as to a close season.—A. I am glad you asked me about that. I am sure that is the only salvation for the mackerel business. I can assure you that unless there is something done to protect the fisheries in the early part of the season it will only be a few years until the mackerel business will be a thing of the past.

Q. Why?—A. Because taking the fish in their spawning season destroys them; not only that, but taking a fleet of vessels and going into a school of fish, must, of course, drive them away; the larger fish go offshore and seek some other place. For instance, I sometimes believe that the cause of there being so many fish in the Canadian waters this

year is on account of our fleet of 180 sailing vessels going south and scattering them, and driving them away; really chasing them.

Q. Do you think those mackerel are good for anything to eat when they are carrying spawn?—A. Not when they are carrying spawn.

Q. When they deposit their spawn they go deeper, do they not, so that you cannot take them?—A. Yes, sir.

Q. So that in the months of April and May, in your opinion, they are not fit to eat?—A. They are not; they are very poor; they are not fit for an article of food, although they are carried to New York in abundance and eaten. Still, I do not believe they are fit to eat; and not only that, but I believe every one of those fish you catch is destroying a better fish, and in fact destroying thousands of fish.

HABITS OF MACKEREL.

By Senator EDMUNDS:

Q. What time do the mackerel first appear on this coast?—A. About the first or middle of June.

Q. Do they spawn after they get here?—A. As a general thing, I don't think they do; there may be a few exceptions, but as a general thing I think the fish spawn previous to June.

Q. Do you think they spawn farther south?—A. Farther south; yes.

Q. Do you believe that the fish that were found off Hatteras last March, for instance, and so along up the coast off Maryland, Delaware, and New Jersey, and off Block Island, are the same ones?—A. I do.

By Senator FRYE:

Q. What do you understand to be the opinion of the mackerel fishermen of Maine as to this question of a close time?—A. I believe that I could get ninety-nine out of one hundred to say that that is one thing that ought to be done, to make a close season. I am sure that this is the opinion of the great majority of all fishermen in Maine.

Q. Is that early fishing conducted by any fishermen except those of Maine and Massachusetts?—A. No, sir.

Q. None in New York?—A. None in New York.

Q. And none farther south?—A. None farther south.

By Senator EDMUNDS:

Q. Do those fish spawn in the Gulf of St. Lawrence?—A. I don't think they do.

Q. You think when they are first found in the Gulf of St. Lawrence is after they have finished their spawning?—A. Yes, I think so.

THREE-MILE LIMIT.

By Senator FRYE:

Q. Have any of your vessels met with any difficulty down there?—A. Not any.

Q. They have not been within the three-mile shore line?—A. I presume not. We have had two or three there fishing, but we gave them instructions not to fish within the three miles, and I presume they have not.

Q. Have you pursued any mackerel fishing in the Gulf of St. Lawrence?

The WITNESS. This year?

Senator FRYE. Yes.

A. We had three or four vessels this year.

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Q. Did they fish within three miles of the shore line?—A. They say they did not.

Q. Was there any necessity for doing so?—A. No, sir.

Q. Were there any other Portland fishermen up there?—A. Some.

Q. Did they fish within that limit?—A. I don't think they did; I think they all had instructions to avoid it. Even if they had desired to fish so near shore the water is so shallow that they could not do it with safety.

Q. With seines?—A. No, sir; not with seines. That is about all the way it is done now.

CLOSE SEASON.

By Senator SAULSBURY:

Q. What would be the effect upon the consumers of fresh fish if we were to have a close season? Do you suppose they could procure any other fish as cheap as those?—A. I should think it would give the people of the South a much better chance to market their shad caught off the Jersey shore.

Q. I understood you to say that there was a large quantity of fresh fish caught in the spring and consumed in New York and at other points?—A. Yes, sir.

Q. Of course they are consumed by the poorer classes of the city and surrounding country. I say, can they find anything else as a substitute so cheap as those?—A. I think so. I think other fish are as plentiful as those. The shad caught on the Jersey shore would have a better market; and the codfish and haddock which they catch there are abundant. I don't see why they couldn't find a substitute. It is not always, you know, that they are cheap. For instance, last year mackerel were quite high there; they were scarce for a time, and there were not so many carried in as there were the year before. The year before they were brought in in abundance, and I have been told there were more destroyed than eaten. That is where the difficulty is; destroying so many in the schools.

IMPORTATIONS OF SALT AND FRESH FISH FROM CANADA.

Q. What proportion of the fish that arrive at this port are sent by the Canadians or Provinces?

The WITNESS. The proportion sent here?

Senator SAULSBURY. Yes.

A. Very few mackerel are sent here from the Provinces, but quite a number of cod are brought in.

Q. I am speaking of fresh fish.—A. I think the amount of fresh fish brought in from there is very limited.

Q. What proportion do you suppose of the fresh fish that are sent to Boston and other different ports of New England are caught by Canadians and citizens of the Provinces?—A. All I know is what I saw in the papers recently, that they had been sending a great many fresh fish there, but probably it is a small proportion of what are caught, because we have a great many vessels here and in Boston that are fresh-fish vessels and do nothing else.

Q. What proportion of the salt mackerel sold at this port and the various ports of New England and other points are caught by the Canadians, compared with those caught by vessels belonging to this country?—A. I could state exactly if I had the statistics; my judgment would be perhaps 20 per cent.

Q. Has the present tariff upon Canadian fish tended to restrict the exportation of salt fish from Canada?—A. I think not. I think they have a certain quality that has to seek this market. Large codfish for packing purposes and export come here almost exclusively you might say. Their small fish they ship directly to the West Indies.

Q. Then the tariff has not furnished any protection to the fishermen of New England, as I understand?—A. Not particularly. It is no protection.

UNITED STATES AND CANADIAN VESSELS.

Q. You spoke of the relative cost of your vessels and of Canadian vessels, and said that Canadian vessels would not cost more than one-half of ours. What is the reason of that? Have you better vessels?—A. We have better vessels; we have vessels built of oak and hard wood.

Q. Take one of your vessels of really just about the same value as a Canadian vessel, and what would it cost here?—A. I don't exactly understand.

Senator EDMUNDS. Built the same way and of the same material, I suppose.

Senator SAULSBURY. I mean of just the same intrinsic value, say \$5,000. If the Canadian vessel was worth \$5,000, what kind of a vessel would \$5,000 expended here build, of the same kind and out of the same material?

A. I don't know as I could answer that intelligently, because I don't know that I am sufficiently acquainted with the building of vessels.

DUTIES.

Q. You spoke of the duties upon articles entering into the construction of your vessels as one of the items of increased cost. Do you know about what duties would be paid upon the materials of a vessel that costs \$10,000?—A. It is my impression that it is about 30 per cent upon the material, is it not?

Q. Upon such material as is dutiable, but all the material that goes into a vessel is not subject to duty?—A. No, not all.

Q. What articles that enter into the construction and equipment of a vessel are subject to duty?—A. The iron, I suppose, hemp, riggings, and sails.

Q. And anchors, I suppose?—A. Yes, sir.

TESTIMONY OF CHARLES A. DYER.

PORTLAND, ME., October 6, 1886.

CHARLES A. DYER sworn and examined.

By Senator FRYE:

Question. Where do you live?—Answer. Portland.

Q. What is your business?—A. Fish business.

Q. How long have you been in it?—A. About eighteen years.

Q. Do you own vessels?—A. I do.

Q. How many?—A. I own eighteen first-class vessels and a great many small ones—what you call shore vessels.

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Q. How long have you been the owner of vessels?—A. For eighteen years.

Q. For the last ten or twelve years what kind of business have your vessels been engaged in?—A. Mostly in the mackerel business.

Q. Any in the cod?—A. No, sir.

MACKEREL—WHERE TAKEN.

Q. During the last twelve or fifteen years where have the bulk of your mackerel been taken?—A. On the American shore.

Q. How far out?—A. They have been taken inshore and offshore.

Q. What proportion outside of the three-mile line along our shore?—

A. I could not say as to that.

Q. A very much greater proportion than inside?—A. I think so, on account of the shoal water.

Q. Do all your vessels use seines for mackerel?—A. Yes, sir.

Q. Do you go South in March?—A. Yes, sir; I send four or five vessels.

Q. How long do they pursue the mackerel-fishing business in the season?—A. They start about the 15th of March and they get back about the 1st of June.

VESSELS AND OUTFITS.

Q. What is the average tonnage of your mackerel vessels?—A. Seventy-five tons.

Q. What is their average cost ready for business?

The WITNESS. Taking seines and everything?

Senator FRYE. No; rigged for sea.

A. About \$9,500 apiece.

Q. Are they built of white oak?—A. They are.

Q. They are substantially built, to stand the sea?—A. Yes, sir.

Q. What does the average outfit for a season cost?—A. From \$1,200 to \$1,500; some more and some less.

Q. That does not include the seines?—A. No; that is for the season, the whole season, not for the Southern season, and includes provisions.

Q. What kind of provisions do you furnish your men?—A. Good; about the same as we have to home ourselves.

INSHORE FISHING.

Q. Have you during the last ten years engaged in catching mackerel in English waters?—A. Yes, sir, but very little; most of our vessels are fished on this shore.

Q. Any within the three-mile inshore line of Canada?—A. No, sir; I think not.

Q. Where have you been fishing this year?—A. I have had six vessels in the Bay of Chaleur, and the rest have been on this shore.

Q. Did those that were in the Bay of Chaleur fish inshore?—A. No,

Q. What has been the result of this season's operations?—A. It has been almost a complete failure on this shore, and about the same at the Bay of Chaleur.

Q. As a mackerel fisherman do you have any necessity for your men going into Canadian ports?—A. No, sir.

Q. Do you desire them to go in there?—A. I do not.

Q. Is there any occasion to fish within the three-mile shore-line?—A. No.

BAIT.

Q. In your opinion, based on your eighteen years' experience in the mackerel fishery, is the privilege of fishing within the three-mile shore line of the Canadian coast of any value?—A. No, sir.

Q. Is the privilege of buying bait worth anything to you?—A. No, sir.

FREE FISH AND DUTIES.

Q. Do you know of anything in the fishery business that you desire of Canada, and which she can give you, that would be regarded by you as an equivalent for free markets for her in this country?—A. Nothing.

Q. What have you to say about the duty on fish?—A. I think if Canada is given free fish we shall have to give up the business to Canada, and she will have a monopoly of it.

Q. Suppose a treaty was made with Canada by which for fifteen years she could have free entry of our market, what would be the result upon the fishermen of Maine?—A. The result would be that they would do the fish business and we should have no fishing fleet.

Q. If you continued in the fishing business you would go over there?—A. I should go over there or go out of the business; I should have to go out if I staid here.

COMPENSATION OF FISHERMEN.

Q. What are the average annual earnings of men in your business?—A. They haven't earned anything this year to amount to anything.

Q. Taking it right through for ten or twelve years, what do you think would be the average earnings?—A. One hundred and fifty dollars or \$200 during a season.

Q. What is the season?—A. From the 15th of March until the 1st of November.

Q. What do these men do in the interim?—A. They go to sea, coasting, and go in foreign vessels, and some go to fishing.

CREWS.

Q. How many men do you have in all your vessels and boats?—A. Probably in vessels or boats some four hundred or five hundred.

Q. How many men will your mackerel vessels average?—A. They will average about sixteen men to a vessel.

Q. That would give you about three hundred for your mackerel fleet?—A. I should think about six hundred or seven hundred then. These small boats don't carry more than three to five men.

NATIONALITY OF FISHERMEN.

Q. What is the nationality of those men; that is, what proportion of them are American citizens?—A. I should say seven-eighths of my men are Americans.

Q. Maine men?—A. Most of them; yes, sir.

Q. According to your experience of those who come over here from Canada and engage in the fishery business, ultimately how many be-

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come American citizens?—A. From the experience around here it is the whole of them.

Q. What kind of sailors are these that you employ?—A. First class in every respect.

COMPENSATION OF FISHERMEN.

Q. Do all of your men go on what is called "the lay"?—A. They do; that is, in the large vessels; in the small vessels they go differently.

Q. How in the small vessels?—A. They find their own food and give the vessel one-fifth, and they get all the fish. We furnish all the fittings, and they give me one-fifth of the product of the voyage.

PROFITS OF MACKEREL FISHING.

Q. For the last twelve years, during the life of the treaty of Washington, what has been the business of mackerel fishing as to profits?

A. Vessels that were kept inshore have been quite profitable on the average; but every vessel that I have sent to the Bay of St. Lawrence has been unprofitable and run in debt.

Q. Then you have no desire to send mackerel fishermen up into the Bay of St. Lawrence?—A. No, sir; not if I can help it.

Q. Whether they fish inshore or offshore?—A. No, sir.

DUTY UPON ARTIFICIALLY FROZEN FISH.

Q. What is your opinion as to duty upon artificially frozen fish?—A. I think the middleman makes all the money, and the consumer pays just the same.

Q. Whether there is duty or not?—A. Whether there is duty or not; that is my opinion.

Q. In your opinion should there be a duty on artificially frozen fish?—A. There should.

Q. Why?—A. Because an artificially frozen fish you can keep a long time and ship it into the interior, and salt it if you are a mind to, and then it becomes salt fish. It is clear that that could be done very easily.

FISH IN ICE.

Q. Is there any difficulty about freezing these fish so as to send them with perfect safety all over the country wherever railroads reach?—A. Not in refrigerator cars; they could put them in ice here, and then send them in refrigerator cars and keep them all winter.

Q. Most of the vessels engaged in the fresh-fish business take ice?—A. Yes, sir.

Q. And they preserve them where they catch them?—A. They do.

Q. I suppose a mackerel lying on deck without ice will spoil in a day, will it not?—A. Yes; on a hot day.

CANNED FISH.

Q. Do you have anything to do with the fresh-fish business?—A. Yes, sir; I can fresh fish; that is all.

Q. For what market?—A. For the United States market, all over the country.

Q. What are those—mackerel?—A. Mackerel; yes.

Q. Do you export any?—A. No, sir.

Q. Do you export any fish at all?—A. A very few salt mackerel.

CLOSE TERM.

Q. What is your opinion of a close term?—A. I think we ought to have a close term.

Q. Why?—A. To protect the fish; to keep from destroying them around New York. There is a certain season that they catch four times what can be consumed, and the extra ones are thrown back into the water dead. I think that prevents the rest of the country from getting those fish later on for salt fish.

BAIT.

Q. From your experience in the fishing business do you think that our fishermen from Maine on the Banks off the Canadian shores, the Grand Banks, and others, have any necessity for going into port to buy bait?—A. I should think not.

Q. What bait do they use?—A. Our fishermen here use salt clams.

Q. They take them from here, do they not?—A. Yes, sir; and then we have weirs all along the coast from here down to Eastport; they could get their bait there. A number of these vessels, two or three that I know of, were seized, and they could have got their bait here just as well as not, and in that way have avoided seizure. If there had not been that report in the papers that they were allowed to go in there and get bait, they would not have gone in and been seized.

Q. In your opinion, what is the privilege of buying bait in Canadian ports worth to the Maine fishermen?—A. Not a cent.

Q. Whether or not you concur with Captain Whitten that, as a rule, the voyages would be more successful if they did not touch in Canadian ports at all for any reason?—A. I think they would.

Q. Is there anything that you know of that is desirable for our fishermen that Canada can give us?—A. Nothing.

Q. Do you know of anything that, so far as fish are concerned, either the catchers of fish, the owners of vessels, or the consumers of fish, can receive from Canada as an equivalent for a free market?—A. No, I don't know of anything.

EFFECT OF DUTY ON THE CONSUMER.

Q. What is your opinion as to effect of a duty upon the fish that the consumer actually receives?—A. I think that the receivers in Boston, where they have free fish, make more profit; it goes into the hands of the middlemen, and the consumer gets nothing.

Q. So that if the duty has any effect, either Canada pays the duty herself and it is chargeable entirely to her, or it is a matter in which the wholesaler and fisherman alone are interested?—A. That is it.

Q. The retailer it does not affect?—A. It does not; his prices are just the same.

Q. It is a small duty now, only averaging about 15 per cent.?—A. That is about it.

Q. If the same duty were put on fresh fish, in your opinion, would it affect the market price as between the retailer and consumer?—A. I don't think it would; I think the middleman and retailer would make the profit every time. The price would be the same to the consumer.

Q. Who do you think at the present time pays that duty—the Canadians, or the men who buy the fish here?—A. I think the Canadians pay it.

Q. What is your opinion of the fishing interests of Nova Scotia?—A. I could not say there is a great decrease in the fishing business altogether.

Q. What has happened to the fishing business?—A. It has increased.

Q. Nova Scotia?—A. Yes, sir. I have been to Nova Scotia so I have been to

Q. What is the fishing business?—A. It is a duty on the fishing business.

There is a duty on the fishing business even to lumber; it is a duty on the fishing business.

Senator FRYE. The WITNESS.

Q. Does not the fishing business do anything else?—A. It does not do anything else.

Q. In building the fishing business greatly more than in any other business.

Q. And in all your fishing business, sir.

Q. And in all your fishing business, sir.

Q. In curing the fishing business?—A. Yes, sir; about the fishing business.

Q. Are you aware of the fishing business?—A. Yes, sir; about the fishing business.

Q. And that the fishing business?—A. Yes, sir; about the fishing business.

Q. And that the fishing business?—A. Yes, sir; about the fishing business.

Q. And that the fishing business?—A. Yes, sir; about the fishing business.

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Q. And that the fishing business?—A. Yes, sir; about the fishing business.

Q. And that the fishing business?—A. Yes, sir; about the fishing business.

DECREASE OF AMERICAN FISHERIES.

Q. What is your knowledge as to the increase or decrease of the fishing interests of Maine during the pendency of the treaty of Washington?—A. I could not tell the exact percentage, but there has been a great decrease. A great many vessels were formerly engaged in the fishing business, which, so far as that business is concerned, are extinct altogether.

Q. What has been the effect upon the fisheries of Canada?—A. They have increased their fleet tenfold I should say.

Q. Nova Scotia increased very largely, did she not, a few years ago?—A. Yes, sir. I think one winter they built eighty first-class vessels; so I have been told.

SHIP-BUILDING.

Q. What is the reason you cannot compete with Canada in the fishing business?—A. Because our vessels and their fittings cost more. There is a duty on everything that goes into the construction of a vessel even to lumber; there is a duty on that, isn't there?

Senator FRYE. I guess we don't pay much duty on lumber.

The WITNESS. On everything else there is a duty.

Q. Does not the difference in wages really make more difference than anything else?—A. That makes a great difference.

Q. In building your vessels do you not pay your ship carpenters greatly more than the Canadians pay their ship carpenters?—A. Yes, sir.

Q. And in all your wages do you not pay more than Canadians?—A. Yes, sir.

WAGES.

Q. In curing the fish on our shore, do you not pay about \$2 a day?—A. Yes, sir; about that.

Q. Are you aware that the Canadians cure their fish with the help of women and children, who work for very small wages?—A. I have heard that; yes, sir.

Q. And that they take their pay out of a store?—A. Yes, sir.

Q. And that they wait for their pay an indefinite length of time, while your fishermen get theirs as soon as the cargo is weighed out?—A. That is a fact.

Q. So that all those differences exist, and they are all in favor of Canada, are they not?—A. Yes, sir.

BAY OF CHALEUR.

By Senator EDMUNDS:

Q. You say you had some vessels fishing for mackerel this year in Bay of Chaleur?—A. Yes, sir.

Q. Have they had any difficulty?—A. No, sir.

Q. The British have not attempted to keep them out of the Bay entirely?—A. No, sir; not to my knowledge.

Q. Have they made more than one trip?—A. One of them has made two trips.

Q. Have all been back once?—A. Yes, sir. They are all at home now, but some came home that didn't have any fish at all; one vessel didn't have a barrel, and she went down there some three or four weeks ago.

Q. Do you know how far up the Bay westward they went?—A. I do not. They did not go within the three-mile limits, at all events.

Q. Is any one of your captains in town now who fished in the Bay of Chaleur?—A. No, sir.

Q. What time of the year were they there?—A. They were there about the 25th of July until the middle of September.

Q. Did they get good fares?—A. No, sir; two came home with full fares, and the others made broken voyages. The whole thing was unprofitable, and I guess that is the case with the majority of the fleet. Of course some few vessels have done very well, indeed, but taking the fleet all through there has been a loss.

Q. All those who fished up there anywhere, as well in the Gulf as in the Bay of Chaleur, you mean?—A. Yes, sir. Taking the average there has been a large loss to the vessel owners.

COMMISSION MERCHANTS AND WHOLESALE DEALERS.

By Senator SAULSBURY:

Q. Has that loss resulted from the scarcity of fish in those waters?—A. Yes; I presume so.

Q. Are the fish that are sent here from Canada usually consigned to commission merchants for sale?—A. Yes, sir, they are.

Q. Those commission merchants sell them upon commission to the jobbers?—A. They sell on a commission, but I have heard that some of them get together, and the commission merchant sells to the wholesale dealer, and they divide the profits; that is what I have heard they do. Of course that all comes out of the Canadians, I suppose.

Q. Do you know that that is the case?—A. No, I don't know, only that is what I have heard.

Q. You say the tariff is paid by the Canadians. If there was no tariff upon those Canadian fish, would not the commission merchant sell to jobber at a cheaper rate than he does now with the tariff?—A. No, sir; because he would want a bigger profit.

Q. The question is whether he could not do it and get his regular commissions?—A. It is not handled by commission merchants. These commission merchants sell to the wholesale fish dealers. They take the thing in hand and sell to the retailer; and by the time it gets to the consumer the price is just the same: it don't make any difference whether they pay \$4 or \$5; and you will find it so right straight through the country.

Q. I want to find out whether the commission merchant who sells to the wholesale dealer, if there were no tariff, would not be able to sell to the jobber, retaining his regular commissions, if he did a fair and legitimate business?—A. Yes, if they would do that; but we find by experience that when those fish get into the retailers' hands and they are retailed there is no difference.

Q. I want to know whether or not, by doing a legitimate business, the commission merchant could not sell to the jobber at a lower rate than he does sell, and the jobber sell to the grocer at a lower rate than he does, if he did not have the duty to pay?

The WITNESS. Do you mean Canadian fish?

Senator SAULSBURY. Yes.

A. I presume the cost of their vessels is less than ours, and they can produce fish cheaper than we can because they don't pay any tariff on anything that goes into the construction of their vessels.

Q. Has the whatever to A same if there fore; we had No. 3 mackere that we could price. But the they could not that was neces that we can su time; we have Scotia in the w Take it for the a failure on thi at New York an Before this year down at their lo

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Senator SAULS A. Yes, sir; th Association.

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men's Union. A. Oh, yes.

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DUTY.

Q. Has the tariff existing upon Canadian fish afforded any protection whatever to American fishermen? Would not their fish come just the same if there was no tariff?—A. No. Take last year and the year before; we had a large fleet of vessels fishing, and we could then sell No. 3 mackerel at \$3.50 a barrel, and we caught them so plentifully that we could make money by delivering them to the country at that price. But the Canadians could not send that kind of fish here because they could not afford to pay the \$2 duty; still our fishermen caught all that was necessary, and there were thousands of barrels left over, so that we can supply the markets of this country with fish for a long time; we have fleet enough to do it without asking anything of Nova Scotia in the way of supplies and opening our markets free for them. Take it for the last three years. Of course this year there has been a failure on this shore, and I think that is on account of their fishing at New York and destroying so many fish. Take it for the last 10 years. Before this year we have had plenty of fish, and fish have been away down at their lowest point.

CO-OPERATIVE ORGANIZATIONS.

Q. With reference to the southern fishery business, I understand you to say that you are in favor of a close season?—A. I am.

Q. Have the fishermen of New England any association among themselves by which they can regulate their trade?

The WITNESS. Any association?

Senator SAULSBURY. Yes.

A. Yes, sir; they have in New York what they call the Fishmongers' Association.

Q. Have they not an association at Gloucester, of which Mr. Steele is president, embracing the entire fishing interests of this section?

Senator FRYE. Senator Saulsbury refers to the American Fishermen's Union.

A. Oh, yes.

SOUTHERN MACKEREL FISHING.

Q. (By Senator SAULSBURY.) I want to inquire if the fishermen, through their association, could not, by themselves, without any intervention of law, regulate that business.

A. No, and I will tell you why: Because if one goes all want to go. There are about a dozen or half dozen that can go south and make money fishing; but if they do there will be a hundred or one hundred and fifty all go after them.

Q. They are not all members of that association, I suppose?—A. Those are the fishermen themselves and the captains that want to go. There are many vessels owned by captains who have no agent, like myself; when they go it is pretty hard work to keep ours back.

Q. Then you want a law to make you behave yourselves?—A. That is what I think. Going out there is a lottery; it has always been unprofitable.

MACKEREL AND CODFISH.

Q. Has the whole supply of salt codfish this year been in excess of the demand? I mean including not only the catch by your own fishermen, but also those that have come to us from Canada?

The WITNESS. This year?

Senator SAULSBURY. Yes.

The WITNESS. Do you mean both codfish and mackerel?

Senator SAULSBURY. Yes.

A. The supply has been in excess of the demand.

Q. By what?—A. There has been enough mackerel to supply the market, because there were a great many old mackerel left over last year and the year before.

Q. Has not the price of mackerel been unusually high this season?—

A. Yes, sir; it has been high compared to other things, but it has been a great deal higher in years before. The high price is, of course, owing to the scarcity on this shore. By some means or other they have left this shore this year. Last year I packed 23,000 barrels of mackerel; this year I packed about 3,000. That is the difference.

HABITS OF MACKEREL.

Q. You are of opinion that the mackerel which are off Hatteras and down that section of the coast are the same mackerel that come up along here?—A. They are, without doubt.

Senator SAULSBURY. I believe that Professor Baird entertains the theory that the fish come in from the sea to different points along the shore.

The WITNESS. I think they will come up here if allowed. But if you take one hundred and fifty vessels down there with purse seines, the fish don't have much chance to get here; they go away down off shore and go into the Bay of St Lawrence. I think they ought to be let alone until the 1st of June, and that is just about the same in effect as the 1st of July, because the 1st of June is the spawning season and those fish then protect themselves; you don't see them. In the month of June no mackerel are caught to amount to anything except small ones, and those that contain spawn. You may take quite a catch of No. 3 mackerel in June, but it is very seldom you get any in June. That is my experience, and I guess that is the experience of every one in the mackerel business. The mackerel begin to spawn about the 1st of June, and we don't get any of any consequence until the 1st of July. Along about the 10th of July we begin to catch them again in quantities.

TESTIMONY OF CAPT. STEPHEN KEENE.

PORTLAND, ME., October 6, 1886.

Capt. STEPHEN KEENE sworn and examined.

By Senator FRYE:

Question. Where do you live?—Answer. At Bremen, Me.

Q. How long have you lived in Bremen?—A. Ever since I was born.

Q. How old are you?—A. Thirty-two.

Q. What is your business?—A. I go master of a fishing vessel most of the time.

Q. What kind of a fishing vessel?—A. Codfish vessel. I have been fishing the last three years about sixty times.

Q. Good vessel?—A. Yes, sir.

Q. How many men do you carry?—A. Fourteen to seventeen.

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twenty-four hours.

Q. How did you fish—on a lay?—A. Yes, sir.

Q. How long have you been in the fish business?—A. I have been in it off and on for 22 years.

Q. Where have you been in the habit of fishing?—A. Cod-fishing on the Western Banks and the Banks of Nova Scotia.

BAIT.

Q. When you have fished in the waters off the Canadian coast what bait have you used?—A. Principally clams except what bait we caught on the ground where we caught our fish.

Q. You were fishing all through the pendency of the treaty of 1871; during that time did you buy bait of the Canadians?—A. I never bought a bill of bait from the Canadians in my life.

Q. Is there any necessity for buying bait of them?—A. I can't say that there is.

Q. Do you agree with Captain Whitten that, take it on the whole, it is a detriment to waste time to go in to buy bait and out again, and all that sort of thing?—A. Yes, sir; a great waste.

Q. Then, in your judgment, the privilege of purchasing bait from the Canadians is worthless?—A. Yes, sir; we consider it an injury.

Q. Were you up there this season with your vessel?—A. Yes, sir.

Q. What time did you go?—A. I left home about the 20th of April.

Q. How long were you up there?—A. I returned, I think, the 18th day of June.

CASE OF THE CITY POINT.

Q. Did you have any trouble?—A. Not that voyage; I did the next voyage.

Q. When did you go the next voyage?—A. I left on the 28th of June.

Q. What is the name of your vessel?—A. The City Point.

Q. Give the committee the history of your last trip.—A. We left Bremen, where I belong, about sixty miles east of here, on the 28th or 29th of June, I believe it was the 28th, and arrived at Shelburne, Nova Scotia. On the night following the day we sailed we took a very heavy breeze, and the vessel sprang a leak and had some of her rigging carried away. On the 30th of June, about 4 o'clock, we came into Shelburne.

Q. What did you go in there for?—A. We went in there to have the vessel repaired, to put some calking down and renew some rigging that had been carried away, and to refill some of our water, and other small things. When I left home I had received the impression from the papers that I had the privilege to go in and out, as we had done before, and of course I went in there, and was probably more careless in some things than I otherwise would have been.

Q. What took place?—A. We came to anchor about 4 o'clock about five miles from the town. We had to refill our water that we had used from the time we left Portland up to that time. It is a great inconvenience to fill water, except when the tide is up, and there was no chance of getting water at town without taking it out of some well, and hiring somebody to haul it, and making it sort of inconvenient and expensive, so we stopped to refill water before proceeding to town. While they were finishing refilling the water (there was only one large cask that had to be filled) I took two men, with my papers in my pocket, and started to go to town, thinking it was all right as long as I entered within the twenty-four hours. I had always been given to understand that it was

aboard his craft they would get a saber-cut over the head, and it might not be very pleasant for them. Then, after we had got through the affair, and the owners of the vessel had paid the fine through the United States consul at Halifax, I believe, or deposited the amount of it under protest, and wired Shelburne to release the vessel, he said he would not let me go until I had paid the expenses of detention, constable fees, wharfage, &c. I then telegraphed the owners that he would not allow the vessel to go until the expenses had been paid, and they wired back to pay the expenses, and I paid the bill. I went to the custom-house to clear the vessel, because I didn't know what the bills were. The custom-house officer said he would take a check from a merchant there, as I had no money. Then I went out to see what the bills were, and then I cleared the vessel. As soon as the captain of the cutter found I had cleared, he said, "Now you are just as liable as you ever were." He wouldn't give me time to do my business as I wanted to do it, and hurried me off. I had two men that belonged about four miles down the harbor, and this was on Monday morning that I cleared to sail, and Saturday one of those men went to the collector and asked him if they could go home, and if he would let me call for them as I proceeded to sea on Monday. He said he would; he guessed there would be no trouble. So, to be sure about it, the men came back to me and told me, and I went up to the collector myself and asked him if I could call for them. He said yes. I said, "Then give me a permit, will you?" No, I didn't ask him for a permit that morning; I am mistaken. It was Monday morning. But when I got cleared I got the permit to take those men on, and I went down to the wharf where the vessel lay. In the mean time, the captain of the cutter had ordered his mate and a boat's crew to escort us down to the light to see that we "did not get into any trouble"; I believe that was the expression he used. He said we couldn't take those men on. So then I produced this permit. The collector stood there at the time. The captain of the cutter said that we ought to have got the men aboard Saturday. The collector spoke up and said, "Yes, you ought to have got the men aboard Saturday"; he apparently was very much frightened by the captain of the Terror, at least he told me he was, in so many words; he said, "You understand there is a man standing right over me if I don't go straight"; he commenced to throw the blame on to me. I talked to them some, and at last they concluded to let me take the men on as I proceeded to sea. At first he said I would have to go without them. Then he says, "What time were you in here this spring?" Said he, "Was it in May?" I said, "I wasn't in here this spring." He said, "Yes, you were in here this spring, and never entered your vessel." I said, "I was not." He said, "You told me the other day you were here this spring." Said I, "I beg your pardon, I never told you any such thing." He allowed I did, and never entered the vessel. We had some little talk, but it didn't amount to much. He said, "You were in Liverpool this spring." Said I, "Yes." He said, "You never entered your vessel." Said I, "I did." He said, "I want to see the entrance and clearance." I said, "They didn't give me anything"; that I had been there several times, and I never got any entrance or clearance. He said, "I want to see them." Said I, "If I have got the papers you can see them." Then he thought he would stop me again, and if it hadn't been for Mr. Attwood, the collector, he would have detained me there some length of time, I don't know how long. He said he could ascertain easily by wiring to Liverpool. So they concluded to let me go. But his whole actions during the time I was there seemed to indicate to me that he wanted to waste all my time he could; from the time I went up town to repair he never preferred any charge against

me until I got through repairs; when I got through with them he brought the charges against me one at a time to make them last as long as he could. I told him once, when we were talking, that I had always supposed I had 24 hours to enter the vessel, which had never been denied me before, and that I only filled water down there because I couldn't get it at town very conveniently. He said, "Captain, you will get into trouble every time you come in here." Said I, "For any purpose?" He said, "Yes, you will get into trouble every time you come in here." Then I wanted to buy some rigging to replace some that had been carried away by the breeze, coming across, but he wouldn't let me get it. He said I ought to have bought it before I left home. I told him I didn't need it then, and didn't know that it would be needed. But he refused to let me have any repairs any further than the calking, at least anything that I asked for.

Q. He would not allow you to purchase any rigging?—A. No, sir; although the collector told me I could. He said I should not. So, sooner than get into any further trouble, I went without it. As I say, I was hurried off because I expected every minute he would bring up something else against me, and I knew my crew didn't feel very well about it, and they were liable to make trouble, being so indignant, and that the sooner I got out of it the better. So I went to sea, and made a voyage.

Coming home we met with some little trouble, met a gale of wind that tore our sails to pieces, and we went in to Halifax. Come daylight next morning the first vessel I saw was the Terror, but he never came near me there. I went to see the consul-general as soon as I went ashore, before it was time to enter at the custom-house, and I made a statement of the facts before him. I got my repairs, and after entering the custom-house and clearing I went to sea, but Captain Quigley did not come near me at that time.

Q. How much did you have to pay at Shelburne for constable's fees and expenses and all those exactions, besides the fine of \$400?—A. \$42.38, I believe, if I remember right.

Q. You staid up in the town in the custody of the captain of the Terror from what time to what time?—A. From the 30th of June up to, I think it was, the 10th of July.

Senator FRYE. About ten days.

The WITNESS. I may be mistaken. We were taken in his custody shortly after we arrived, and we were there twelve days; so it must have been the 11th of July, I think.

Q. (By Senator EDMUNDS.) How long would it have taken you to make your repairs so that you could have sailed, except for that interference?—A. About half a day. They commenced in the morning, and near noon I went ashore to clear.

Q. You would have got off within twenty-four hours if you had been left alone?—A. Yes, sir; I should have got off that afternoon. When he stopped the vessel of course I did less repairing than I otherwise would have done, and knocked the workmen off; I let them do what I could get along with without the vessel sinking, and went to clear from the custom-house, but he wouldn't clear me.

PER DIEM COST OF VESSEL AND CREW.

By Senator FRYE:

Q. Do you know what is the average cost per day of your vessel and crew?

The WITNESS.
Senator FRYE.
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T. C. LEWIS sw

By Senator

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Q. In Portland?
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The WITNESS. Do you mean provisions and all?

Senator FRYE. Everything.

A. No, sir; I don't; I never made any estimate. The owner of the vessel is here, and probably he can give it to you better than I can. That is rather out of my line of business.

CANADIAN PORT PRIVILEGES.

Q. Is that the only trouble you ever had with the Canadians?—A. Yes, sir; that is the principal trouble; about all.

Q. Did you ever have any difficulty before up there about entering or clearing, or anything of the kind?—A. I was in Shelburne once, and didn't enter the vessel right off, and Mr. Attwood asked me if I wasn't coming up to enter the vessel; he said I ought not to lay too long; and that is about all that was ever said.

Q. What is the understanding among you fishermen; that you have twenty-four hours in which to enter the vessel?—A. I understand now that we have not.

Q. What has been the understanding?—A. That we had twenty-four hours.

Q. Have they practiced upon that understanding?—A. The most of them practiced not entering at all; a great many never bothered; I generally entered. I said most of them practiced not entering at all; perhaps I am wrong. Some of them didn't know that they had any right to enter. But this year I think they were anticipating some trouble, and so far as I know I think they all entered. I was in Liverpool this spring, and my vessel lay at Brooklyn, the adjoining town, and we had to go to Liverpool to enter. We got in at night and lay until the next afternoon. I asked the collector how long I could lay, and he told me I could lay as long as I had a mind to. They didn't give me any harbor regulations, didn't tell me what I should do or not do. He didn't tell me I should come in immediately and enter the vessel as soon as I arrived there. He seemed to be a very nice man, quite like a gentleman; that was Mr. Dunlap, of Liverpool.

Senator SAULSBURY. The Liverpool the witness has been speaking of is not Liverpool in England?

Senator FRYE. No; Liverpool, Nova Scotia.

TESTIMONY OF T. C. LEWIS.

PORTLAND, ME., October 6, 1886.

T. C. LEWIS sworn and examined.

By Senator FRYE:

Question. Where do you live?—Answer. Portland.

Q. How long have you lived here?—A. Twenty-five years.

Q. What is your business?—A. Fish business.

Q. Owner of a vessel?—A. Yes, sir.

Q. How long have you been in the fish business?—A. About twenty years.

Q. In Portland?—A. Yes, sir.

Q. How many vessels are you interested in?—A. I think I am interested in fourteen or fifteen; I am not certain.

- Q. What is their average tonnage?—A. Perhaps sixty-five tons.
 Q. Good class of vessels?—A. We think so.
 Q. What kind of fishing are you engaged in?—A. Cod and mackerel fishing.

MACKEREL, WHERE TAKEN.

- Q. During the last twenty years, where have you caught the bulk of your mackerel?—A. On this shore.
 Q. On the American shore?—A. Yes, sir.
 Q. Outside the shore line?—A. Principally.
 Q. As a rule, for the last ten years, the mackerel have been taken outside, have they not?—A. Yes, sir.
 Q. Fishing with seines, you do not regard it as safe, do you, to fish in shoal water or where there is a ragged bottom?—A. No, sir.

COD, WHERE TAKEN.

- Q. And where have you pursued your cod-fisheries?—A. At the Western Banks and Quebec.
 Q. Off the English coast?—A. Yes, sir.
 Q. Have you fished every year off the Canadian coast for cod during the last twenty years?—A. Yes, sir.

BAIT.

- Q. Where did you get your bait?—A. Here.
 Q. What kind?—A. Clam bait.
 Q. Do you ever buy any bait of them?—A. I think we have in two or three instances perhaps.
 Q. Did you buy any bait of them while the treaty of Washington was in force?—A. I think in two or three instances we did, on short trips.
 Q. Is there any need of the Maine fishermen purchasing bait of the Canadians?—A. Not in our line of fishery.

THREE-MILE LIMIT.

- Q. What is the privilege contained in the treaty, of fishing within three miles of the shore line, worth to American fishermen?—A. If you speak of State of Maine fishermen, it is worth very little.

CANADIAN PORT PRIVILEGES.

- Q. Have you any occasions to go into their ports for anything?—A. No, sir.
 Q. If you have the right to go in for shelter in a storm, or for repairs in case of having suffered damage, and to obtain water or purchase wood, is there any other one you desire?—A. No, sir.

FREE FISH.

- Q. Is there anything you know of, in the interest of American fishermen, that the Canadians can give you that would be regarded by you as an equivalent for a free market for them?—A. No, sir.

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BAIT.

Q. What kind of bait do you use?—A. Clam bait.

Q. And do not the Nova Scotians use the same?—A. Yes, sir.

Q. How many Nova Scotians have been into this port buying bait this season?—A. The State of Maine has furnished between 12,000 and 15,000 barrels of clam bait to Nova Scotia this year, and every year for the last number of years since they have increased their fleet.

Q. How many vessels would that supply?—A. On an average it takes about 50 barrels to a vessel for the first trip, and about 30 to 40 on the second.

Q. Has there ever been any difficulty about the Canadian fishermen during the last year coming here and buying all the bait they pleased?

—A. No, sir.

Q. Have they ever been interfered with?—A. No, sir.

Q. Has anybody ever refused to sell them bait?—A. No, sir.

Q. Have they ever been troubled about entrances and clearances, and things of that kind?—A. No, sir; it would be impossible for them, without bait from the State of Maine, to continue their cod-fishery business and the hand-line business, as we look at it; they have no grounds on their coast to produce bait; they depend-upon the State of Maine for their bait, and have done so for the last 15 or 20 years—that is, the State of Maine principally; they get some few from Massachusetts, but their principal supply is from the State of Maine.

Q. What kind of fish require fresh bait?—A. The halibut fishery and crawl fishery; that is, they formerly thought they could do better with fresh bait, but we have sent out trawlers this year, and they used salt bait entirely, and we found that we could have better success with salt bait than to waste time running for fresh bait.

Q. So that, on the whole, it is better for the fishermen of this country to provide themselves with salt bait before going, even though they are crawling?—A. Yes, sir; that is our experience here.

Q. What do they use for halibut, as a rule?—A. They use very little fresh bait usually, for they can't get it until they catch a few fish, and then they use the trash, as they call it.

Q. So that there is no need, even in fishing for halibut, to get fresh bait, squid, or anything?—A. Not being acquainted with the halibut fishery, I am not able to state whether it is a necessity or not.

FRESH AND SALT FISH.

Q. What have you done with your mackerel that you have taken? Have you sold them fresh, or salt?—A. Salt.

Q. Do you export any?—A. No, sir.

Q. Where is your market?—A. The market is all over this country.

Q. Have you dealt any in fresh fish?—A. No, sir.

Q. Do you know what effect the greatly increased consumption of fresh fish has had upon the salt-fish business?—A. I think it has decreased somewhat the consumption of salt fish.

EFFECT OF DUTY ON THE CONSUMER.

Q. There is a duty on salt fish, and practically none on fresh. In your opinion, who pays that duty?—A. I think it comes out of the Nova Scotia fishermen.

Q. According to your experience in the fish business, does the duty on fish increase the price to the consumer?—A. No, sir.

Q. If it affects anybody, it is somebody outside of Canada; it is the wholesaler and not the consumer?—A. Yes, sir.

Q. Do you know what proportion the price paid the fisherman bears to the price paid by the consumer? If I bought a mackerel, for instance, to-day of the retailer, what proportion of the price of that mackerel does the fisherman get who caught it?—A. Well, on an average, I think he gets less than one-half.

Q. Does he get over two-fifths?—A. I don't think he would get over two-fifths on an average.

LAY.

Q. Do your fishermen work on the lay?—A. Yes, sir.

Q. All of them?—A. Yes, sir.

Q. Is that the custom among the Maine fishermen?—A. Yes, sir. I think many of the vessels in the eastern portion of the State, at Bucksport and Lemoine, hire their men for the voyage.

NATIONALITY OF FISHERMEN.

Q. How many men do you employ in all?—A. Perhaps 400 or 500.

Q. What proportion of your sailors are American citizens; i do not say American born, but American citizens?—A. In our seining there is a large proportion of naturalized citizens.

Q. Four-fifths, or what?—A. I should say three-fourths.

Q. In your cod-fisheries how would it be?—A. A smaller proportion; perhaps not more than half. But those men are coming this way to settle here; that is the tendency and result of their coming; they remain here.

Q. What would you look for as the result of an active, young, intelligent Canadian coming in here and engaging in the business? What is the general result? Does he become an American citizen?—A. He becomes an American citizen, yes.

Q. I suppose his ambition cannot be gratified to command a vessel unless he does become an American citizen?—A. No, sir.

Q. What kind of sailors are these?—A. Good sailors.

CANADIAN COMPETITION.

Q. What is the reason you cannot compete with Canada in fishing?—

A. Well, they have cheaper vessels, cheaper outfits, and they are very much nearer the fishing grounds than we are, which makes quite a difference; and they live very differently on board their vessels.

Q. More cheaply?—A. More cheaply, and very much more differently.

COMPENSATION OF FISHERMEN.

Q. Are not all their wages less than the wages paid in this country?—

A. They know very little about wages. As I understand, they live a sort of serfdom; they go in their vessels, and they and their families are barely kept alive during the voyage.

Q. They receive store pay?—A. Yes, sir; they receive very little money; perhaps know very little about money any way. We pay our men in money as soon as the fish are sold and the voyage is settled.

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Q. What have your men averaged, for the fishery seasons for the last ten years, for their pay?—A. I should think perhaps about \$250.

Q. How long is the season?—A. It commences on the first of April and closes in October.

Q. What do the fishermen generally do in the interim?—A. Quite a portion of them follow the sea; some go winter fishing; some go into the woods to chop, and some remain at home.

PRICES OF FISH.

Q. Have you ever noticed that the fishery treaty of 1871 had any effect upon the prices of fish?—A. No, sir; I don't think it had any effect upon the prices of fish.

Q. As a matter of fact are not fish lower this year than last?—A. They are low; lower, I think, than they have been any time since I have been in the business.

By Senator SAULSBURY:

Q. Does that apply to mackerel fishing?—A. No, sir; cod-fishing.

By Senator FRYE:

Q. Mackerel have been higher this year on account of the scarcity?—

A. Yes, sir.

Q. Then it is not the duty which troubles you at all in this matter of fish; it is that the freedom from duty encourages the Canadians to increase their fleet and increase the number of fish they catch, and thus reduce the price of your mackerel?—A. Yes, sir. I don't know just the per cent., but I think their fleet has more than doubled in the last ten years.

Q. That was a mistake made by the gentleman who preceded you?—

A. It has more than doubled.

Q. That was very largely the case during the life of the treaty of Washington?—A. Yes, sir.

Q. Did not Nova Scotia make a very heavy increase in two years there?—A. Very heavy.

FRESH FISH.

Q. In your opinion what would be the result of a treaty which should provide that for fifteen or twenty years our markets should be entirely free to the Canadians for fish?—A. The present generation of Maine fishermen would all go out; they would be obliged to.

Q. Give up the business?—A. Yes, sir.

Q. Have any of your vessels had any trouble there this season?—A. No, sir.

Q. Have any of them been into the Canadian ports?—A. Yes, sir.

Q. Then I understand you there is nothing, so far as you are engaged in the fishing business, that you want of Canada?—A. No, sir.

CLOSE SEASON.

Q. What do you say about the close season?—A. I believe that we should have it.

Q. Why?—A. It has been very well stated here that the spawn fish are prevented from coming on to our coast to spawn, as they naturally would if they were let alone.

Q. The fish that come when they are carrying spawn are small and poor, are they not?—A. No, sir; they are large and poor.

Q. In your opinion, is there any difficulty about supplying cheap fresh fish in the months of April and May, even if there is a close time on mackerel?—A. No, sir.

EXTENT OF MACKEREL FISHERY.

By Senator SAULSBURY:

Q. What is the number of sail engaged in the fishing business at this port?—A. I think we have about 150 sail on the books of the Portland Mutual Insurance Company; that may not be far from the number of vessels from this port.

INSURANCE.

By Senator FRYE:

Q. What is the average cost of insurance in mutual companies?—A. The last ten years I think it has been about, perhaps less than, 2 per cent. for the season.

Q. How is it that the average in Gloucester is 9 per cent.?—A. They do much more winter fishing, Georges fishing, which is much more hazardous than ours.

A BYSTANDEE. Their season is shorter, too.

The WITNESS. We are in trouble now; we have two vessels ashore at Malpeque; I am just arranging to-day to send a diver there; I have telegraphed to Halifax to ascertain if they would allow it; we have not received any answer; we understand they will not allow us to remove the ballast. They are very nice vessels, and we insured them for about \$11,000.

Q. What is the ballast?—A. It is rock.

Q. You understand that they do not allow you to remove that ballast of rock?—A. We understand so. I am president of the insurance company, and I engaged a diver to go to-night, on the chance of being permitted to remove the ballast. We have an agent at Malpeque who has endeavored to engage divers, but they have none, or would not furnish any; they said their divers were busily engaged and could not accommodate him. Therefore we are at their mercy, and if we are not allowed to send divers from here we must lose the vessels.

Q. Where is Malpeque?—A. On the north side of Prince Edward Island.

LOCAL TAXATION OF VESSELS.

By Senator SAULSBURY:

Q. Are your vessels here properly subject to taxation for local purposes? In some of the States they do not subject them to local taxes.—

A. Yes, sir; they are subject to taxation.

Q. What is the rate of taxation?—A. About $2\frac{1}{2}$ per cent.

By Senator FRYE:

Q. How do they assess those vessels—at full value?—A. No, sir.

Q. About how much?—A. When a vessel is new they make the assessment at nearly its full value, but the assessment is reduced quite fast as the years go by.

Q. Is it reduced faster than the depreciation of the vessel?—A. Yes, sir; and at 20 years they drop it out.

DEPRECIATION OF FISHING VESSELS.

Q. What do you account the annual depreciation of a fisherman?—

A. The first five years the depreciation would be from 5 to 8 per cent., and at the present outlook it would be much more than that.

Q. The depreciation would be very much larger on those vessels engaged in winter fisheries, would it not?—A. Yes, somewhat larger.

By Senator SAULSBURY:

Q. What is the average life of your fishing vessels?—A. The average life before retopping, as we term it, is about 15 years; then they have to be retopped; the bottom, of course, never rots, being saturated with salt.

Senator SAULSBURY. That is all.

The WITNESS. There is one point I would like to bring out.

EXPORTATIONS, AND TRANSHIPMENTS.

Senator SAULSBURY. State anything you desire.

The WITNESS. In regard to Nova Scotia interfering now with our export business; they are cutting us off very much from our export business.

By Mr. FRYE:

Q. How?—A. By bringing their fish here and having them go through our custom-house free of duty, and shipping them to ports that we have formerly supplied with fish; while they don't allow us to bring a barrel of fish from the Bay over their railroad, we are allowing them to bring here all the fish they choose and reship them to the West Indies free of duty and expense, and shutting us off from that trade.

Q. You are not aware that any restriction has been placed upon them in our country in relation to that transit?—A. Not that I know of.

Q. And you are aware of the fact that they do not allow us to land any of our cargoes and transship there?—A. Not any this year.

Q. And I suppose it is further a fact that nearly all their fresh fish are sent in that way to Boston market, are they not?—A. Yes, sir.

CANADIAN PORT PRIVILEGES.

Q. Would it be an advantage for our fishermen to land there and ship to Boston?—A. It would if they were fishing in the Gulf of St. Lawrence. We formerly landed cargoes at Shediac, and refitted and sailed.

Q. That has all been cut off since the treaty of Washington?—A. Yes, sir.

Q. Mr. Saulsbury insists that that point applies to all other classes of property.—A. I presume all classes of property would be subject to the same. I think they are much more indebted to us for the two privileges of bait and reshipment of fish than for any they can give to us.

Q. They do not make the same application to all registered vessels that desire to enter; it is only the fishing vessels?—A. Only the fishing vessels.

Q. Is there anything else you desire to state?—A. No, sir.

TESTIMONY OF GEORGE TREFETHEN.

PORTLAND, ME., October 6, 1886.

GEORGE TREFETHEN sworn and examined.

By Senator FRYE:

Question. Where do you live?—Answer. Portland.

Q. How old are you?—A. Almost fifty-seven.

Q. What is your business?—A. Fish dealer.

Q. How long have you been in the business?—A. Thirty-four years.

Q. Are you an owner of fishing vessels?—A. No, sir; I am not an owner of fishing vessels now; I do own one piece of a fishing vessel; I formerly owned a dozen or more pieces.

Q. So that your principal business is dealing in fish?—A. Yes, sir.

Q. What kind of fish?—A. Dry, salt, and pickle fish, and all kinds of sea fish.

Q. Are you a wholesaler?—A. Yes, sir.

EFFECT OF DUTY UPON CONSUMER.

Q. What, in your experience, is the difference between the wholesale price of fish and the price which the consumer pays?—A. I think at present the prices of dry fish are nearly a hundred per cent. more than the first cost.

Q. In your opinion, does the duty upon salt fish affect the price of fish to the consumer?—A. No, sir; I don't think it does.

Q. Who do you think pays the duty?—A. I think the men that ship them here pay it.

Q. The Canadians?—A. The Canadians.

Q. But if it has any effect at all it is only between the Canadians and fishermen?—A. Perhaps there ought to be a little qualification in that respect; it may have a slight effect on the purchaser. The amount of fish brought in from Nova Scotia, compared with the amount taken by our own people, is small; I do not see how it could have a perceptible effect except in rare instances when we are short of catch and they have a large catch.

Q. Now, as to fresh fish: Do you know the difference between the prices of the wholesaler and the prices of the retailer for fresh fish?—A. Somewhat.

Q. What is the relation of those to each other?—A. I should say about threefold.

Q. That is to say, the consumer pays threefold more than the wholesaler pays?—A. Yes, sir.

Q. If there was a duty upon fresh fish, do you think it would affect the consumer at all?—A. Hardly; the amount is so small in comparison with our own catch that it does not seem to have any significance relatively.

FRESH FISH IN ICE.

Q. Under the present construction of the tariff allowing "fish, fresh, for immediate consumption," to come in free, and under modern processes, is there any difficulty about keeping fresh fish on shipboard for ten days or a fortnight?—A. Not any.

Q. And then taking them in refrigerator cars to Boston and New York?—A. None at all, practically.

Q. So that practically fresh fish could be kept as fresh fish for months?—

A. Yes, sir; they are practically cured.

DUTY.

Q. Do you know of any reason, if there is duty on frozen fish, why there should not be on fresh?—A. I do not.

Q. In bringing a cargo of fresh fish from Canada is there any difficulty at all in sending them to Boston or any other place whatever, and immediately curing the whole cargo?—A. I don't see any reason why it can't be done.

Q. And thus escape the duty?—A. I think the Canadians charge us a duty on fresh fish, the same as on salt.

Q. Yes, they do. Do you know of any nation that does not charge us a duty if we send them fish?—A. I do not; and some of them are pretty hard chargers, too.

BAIT.

Q. Are you familiar with the fishery business?—A. I think I am.

Q. Is there any necessity of our going into Canadian ports to buy bait for cod-fishing on the Banks?—A. I don't think there is except in rare instances. I can conceive of a case where it would be beneficial to go into a Canadian port for fresh bait.

Q. Such as what?—A. A vessel leaving port here with fresh bait, going trawling, meeting adverse winds or bad weather, the bait might become injured before they got on the fishing grounds, or before they used the bait; in such a case it might be advantageous to be able to run into a near port instead of going a long way home to renew the supply. I think it is rarely that would happen, but occasionally it might. I think the strongest reason, perhaps, for our vessels going into Canadian ports is having Canadian men aboard, Nova Scotians, that want to see their families; they want to go home, and they make an excuse half the time that they want to get some bait, when they only want to go into port and have a good time.

Q. You being acquainted with the fishing business, if you had twenty vessels engaged in the cod-fisheries which should you prefer, that the captains of your cod-fishermen should every season go into Canadian ports to buy bait, or that they should take bait originally when they were here, and not go into Canadian ports except for shelter, repairs, for wood and water?—A. I should prefer that they should keep away from the ports.

Q. You think it would be more profitable?—A. I do. From 1852 to 1855 I was part owner of eight or ten cod-fishermen and mackerel fishermen, and was somewhat interested in the business. I do not think to my knowledge we ever bought a barrel of bait of Canada.

Q. And part of that time you had the privilege?—A. Part of the time we had the privilege.

AMERICAN AND CANADIAN RECIPROCAL PRIVILEGES.

Q. Do you know anything that our fishermen require from Canada in this matter of fishing?—A. We require the privilege of their ports in case of stress of weather.

Q. I mean outside of what we are entitled to under the treaty.—A. I don't think of anything else. It might be an advantage to us to ship our mackerel home, to have commercial privileges the same as our merchant marine has; I don't see why we shouldn't be entitled to them.

Q. Do you know whether these fishermen generally take permits to touch and trade?—A. Several of them did this spring, but it amounted to nothing.

Q. The Canadian authorities would not recognize them?—A. No, sir.

FREE FISH.

Q. What would be the effect upon our fisheries if Canada should obtain a treaty which would give her our market free for 15 or 20 years?—A. I think it would be virtually the extinction of our Bank fisheries, our mackerel fisheries. We should probably continue the shore fishing with smaller vessels and small boats. We are suffering now from the effects of the large increase the last two or three years of the continuance of that treaty.

Q. In consequence of the increase of the Canadian fleet?—A. Yes, sir; that is where we are suffering now. They are going to die, but they die hard. They have their vessels and are keeping them afloat as long as possible in hopes to accomplish another reciprocity treaty. That is one thing that has created an over supply of fish, principally Bank fish. If they are allowed to increase and have our markets free, it seems to me that it will be the extinction of our fisheries; I don't see anything else in store for us. They are feeling very bad about paying this duty, and it goes pretty hard with them with the low prices. I buy quite a large lot of Nova Scotia fish myself; I have had one or two cargoes a month for the last three months. They bring them here and we buy them.

DUTY.

Q. Who pays the duty—you, or they?—A. I know that I don't. I furnish the money to do it, but it comes out of the price of the fish. We buy their fish at a little less than we buy our own.

Q. Even with the duty on?—A. Yes, sir.

BAIT.

Q. Have they been in the habit of coming in here, without let or hindrance, to buy bait?—A. Yes, sir; to buy anything they want and lay 24 hours or 48, or a week if they want to, in the lower harbor, without let or hindrance, without entering.

Q. Has any trouble ever been made with them this year about it at all?—A. The only case I have heard of was at Booth Bay.

PROVINCIAL FISH.

By Senator SAULSBURY:

Q. You say you deal in Nova Scotia; what proportion of the fish that come to this market are fish caught by the Provinces?—A. I should say that in my business I buy perhaps a quarter part of Nova Scotia fish.

Q. What kind of fish are those?—A. Codfish principally; very few mackerel come here from Nova Scotia.

Q. Do you think that the quantity of fish from Canada and Nova Scotia that comes to this market affects the price at all?—A. Well, I

think they have an effect; they are a class of fish that comes here in direct competition with another class that our people cure here.

Q. I am speaking now of the cod and mackerel?—A. The codfish principally. The mackerel might as well be left out, as far as the competition of this port is concerned with Nova Scotia; they don't bring them here; they send them to New York, Chicago, and Boston directly from Halifax and those ports there; but they do not come to Portland. I think I can safely say that there have not been a thousand barrels of Nova Scotia mackerel landed in Portland from Nova Scotia vessels in two years; I don't know of it, and I think I should know if that had been the case.

HERRING.

Q. Do you catch any herring with your fishermen from here?—A. Oh, yes, thousands of barrels are caught in the fall of the year, about this time. If you were to walk down upon our wharves at this time you would see fish-packing establishments surrounded by barrels of herring that have just been landed.

Q. Do you think the herring caught in the waters of the Provinces and Canada affect the prices of herring in the market?—A. I don't see how they can very materially; the price is so very low that after they pay the duty there don't seem to be anything left.

By Senator FRYE:

Q. What is the price of herring?—A. About \$3 a barrel here.

Q. How many pounds?—A. Two hundred pounds. The fish business is away down at the lowest possible grade of existence.

MACKEREL.

By Senator SAULSBURY:

Q. That does not apply the present year to mackerel, does it?—A. No; the prices are high, but the mackerel are scarce, so it does not help the fisherman.

Q. The price of fish, like every other commodity, depends upon supply and demand?—A. Just so.

FRESH FISH AND HADDIES.

By Senator FRYE:

Q. I suppose that most of the fresh fish they send here come by rail, do they not?—A. The most of them come by rail and steamer. Most of the fresh fish that are brought from the Provinces come by steamer from Boston from Yarmouth and Halifax.

Q. They do not come to Portland much?—A. Some come on the St. John steamer from Digby and St. John, principally halibut. But the St. John people buy more fresh in Portland and in Boston than we buy of them. They depend upon us for their winter haddies. They come to Boston and buy thousands and thousands of pounds of fresh haddock. The Canadian Government has put an extra duty upon haddies landed in the United States in order to protect their people there. The duty has been made high, and yet they can come over to Boston and buy fresh haddock, take them to St. John and smoke them, and ship them to Ottawa, Montreal, and everywhere else in that country at a half price less than we can, and still make a profit. That involves a little fancying.

CANADIAN DUTY ON HADDIES.

By Senator EDMUNDS:

Q. How are they able to do that?—A. The Canadian Government puts a special duty on haddies.

Q. And you have to pay the duty when you send them there?—A. Yes, sir.

Q. The duty in Canada, you think, bears upon you who send the fish in there?—A. Yes, naturally.

TESTIMONY OF JOHN A. EMERY.

PORTLAND, ME., October 6, 1886.

JOHN A. EMERY sworn and examined.

By Senator FRYE:

Question. What is your business?—Answer. I am in the salt business, and am a vessel-owner and commission merchant.

Q. Are your vessels engaged in fishing?—A. Yes, sir.

Q. How long have you been engaged in that business?—A. I have been engaged in this business about ten years.

BAIT, ETC.

Q. You have heard the testimony touching what we desire from Canada, the necessities of our buying bait there, and touching the effect of free fish, and all that sort of thing, from several gentlemen who have testified, have you not?—A. Yes, sir.

Q. Do you agree with them?—A. I do. I can't see that there is any necessity of our vessels going in there for bait. I think they get more bait of us than we get of them.

CLOSE TIME.

Q. I wanted to ask especially your opinion about a close time.—A. My opinion is that if we don't have a close time the mackerel will disappear from this coast. Such an immense fleet of vessels going down there and breaking them up in their spawning season, when they first appear off Cape Hatteras or Cape Henry, I think has the effect to drive them off the coast, broad off, so that the large mackerel don't care to come on this shore at all. I think that has been especially the case this year. And of course, taking so many mackerel full of spawn, in time will tend to cut off the supply; I think they will disappear on this coast altogether unless something is done to prevent it.

Q. They take porgies and mackerel indiscriminately, do they not?—A. Yes, sir. There have been no porgies on this coast for many years.

MACKEREL SPAWNING.

By Senator EDMUNDS:

Q. Do the mackerel spawn on this coast here?—A. I couldn't say to that; I think they used to before we drove them away; I think they used to spawn around Cape Cod and Nantucket, but I can't say of my own knowledge; that is the impression I have always had.

Q. According to your information are any mackerel taken off your shores here, the nearest mackerel fisheries to this port, that contain spawn fully developed and about ready to be cast, at any time of the year?—A. I think they have taken them off Cape Cod; they used to, but haven't taken any this year, and very few the year before. But I can't say as to that so well as some of the gentlemen who have been in the business longer.

FREE FISH.

By Senator FRYE:

Q. In your judgment what would be the effect of a treaty with Canada by which she was given our markets free for a certain period, say fifteen or twenty years?—A. I know I should go out of the business.

Q. Why would you go out of the business?—A. We can't compete with them. They are building up their fleet at the expense of ours.

Q. Your opinion is that it would be destructive to our fishery interests?—A. That is my opinion. When I was a young lad I remember that our fishermen were prosperous, but now some of them have gone out of the business entirely.

COD AND MACKEREL.

By Senator SAULSBURY:

Q. How far off this shore are mackerel taken?—A. The mackerel appear on this shore about the 10th of July, and are caught from 10 to 50 miles off-shore.

Q. Have you any hand-line fishing?—A. Not now for mackerel.

Q. The fishing is all done by seines?—A. Yes, sir. There is some shore cod-fishing on this shore. They catch those nearer.

By Senator EDMUNDS:

Q. How many vessels have you in the business?—A. I think I have an interest now in fifteen.

Q. Both cod and mackerel fishing vessels?—A. Yes, sir.

Q. About the same classes of vessels that have been described by the other gentlemen?—A. Yes, sir.

Q. About the same number of men to each vessel?—A. Yes, sir.

Q. About the same proportion of American citizens?—A. Yes, sir. I am interested in small pieces with some of these gentlemen who have testified.

Q. Have any of your vessels been disturbed in the Provinces this year?—A. I think not.

Q. How many vessels this year have you had going into the North Bay, or what we call the Bay of St. Lawrence?—A. Six or seven; six, I think.

Q. They went for mackerel, I suppose?—A. They went for mackerel.

Q. Did they get fair fares?—A. Two of them got pretty near full fares. The rest of them came home with broken trips, which is very unprofitable.

THREE-MILE LIMIT.

Q. And they were taken, I suppose, as a matter of course, outside of the three mile limit?—A. They can't fish inside the three-mile limit. There isn't water enough, as a rule.

Q. Your mackerel vessels, during the time you have been engaged in the business, I suppose, have not caught fish to any extent within the

limit?—A. Not until this year. Very few vessels that I have been interested in went to the Bay of St. Lawrence at all. It is only this year that the mackerel have gone there for a number of years. I think they have been driven off our coast. It has been a very unfortunate feature that they went this year and the year before.

Q. Has it been any serious inconvenience to your vessel in the mackerel fishery up there that they have not been allowed to go inside of the three-mile limit, except for wood, water, &c.?—A. Oh, no, sir; they couldn't fish within the three miles.

TESTIMONY OF HORACE M. SARGENT.

PORTLAND, ME., *October 6, 1886.*

HORACE M. SARGENT sworn and examined.

By Senator FRYE:

Question. Where do you reside?—Answer. Falmouth.

Q. What is your business?—A. Fitting business.

Q. Falmouth is close by Portland, is it not?—A. Yes, sir.

Q. Are you the owner of any vessels?—A. Yes, sir.

Q. How many are you interested in?—A. I own pieces of about fifteen fishermen, and I own a large fleet of coasters, about twenty-five vessels.

CASE OF THE ELLA M. DOUGHTY.

Q. Did any of your vessels get into any difficulty this season?—A. Yes, sir.

Q. What?—A. The schooner Ella M. Doughty.

Q. What was the difficulty?—A. The captain left Portland with fresh bait aboard to go halibutting. He had been a trip before of over a week, and got quite a large fare. He went back to the same grounds in hopes to get another fare. But they had moved by the time he got there, and so he started to go further up the coast. When he got up the coast he fell in with the ice, and put into Pictou for harbor. While in there the custom-house authorities sent a boat off alongside and told him he would have to enter at the custom-house, which he did. He lay there a spell, and came out and tried to get up the coast from there further, but the ice drove him into St. Anne's. I think he tried three times to get out. The second time when he was trying to get out, his bait was getting poor, and one of their fishermen came alongside and offered to sell him some fresh bait. As he had one of these permits to touch and trade, which he supposed was all sufficient to buy with, he bought the bait. These fellows that he bought the bait of went to the store there to do some trading, and the storeman asked them where they got the American money. They told him, and then the storeman made a complaint against the Doughty. She had to put back again to St. Anne's on account of the ice, and finally had to make up into the upper harbor. The captain didn't know that there was any custom-house there. He said there was a farm-house away up in the field where the man lived who pretended to be a custom-house officer. That man came down and seized the vessel, and the captain and crew came home. Since then he gave a bond of \$400 for not entering, and \$200 for some other expenses (I don't know exactly what they were), and a \$3,000 bond for the vessel.

Q. You gave bond to release the vessel and she has come home?—A. Yes, sir.

Q. Has anything been done about it?—A. Yes, sir; Mr. Putnam is attending the case, and I suppose it will come up for trial this month.

By Senator EDMUNDS:

Q. At what place?—A. At Halifax.

By Senator FRYE:

Q. How much bait did he buy?—A. He bought \$10 worth; bought it very cheap; I believe he bought ten barrels at \$1 a barrel. He had one of these permits to touch and trade, which he showed, but they told him it wasn't good for anything. It was my understanding when he left port here that with that permit he could touch and buy anything.

Senator FRYE. The fact is that a telegram came from the State Department that it was good.

The WITNESS. I think so; we were led to think so.

By Senator EDMUNDS:

Q. What time in the year was it that that vessel was seized?—A. I think it was in the month of May.

Q. She was in the Northumberland Strait, near Pictou?—A. Yes, sir.

Q. If it had not been for the ice driving her in she would not have had any occasion to buy bait?—A. No, sir; but, of course, it is very convenient for the halibut catchers to go in and buy bait.

BAIT.

Q. What kind of bait is used for halibut?—A. Herring mostly; when they can get herring they fish with it altogether, but when they cannot they fish and catch haddock and cod, or anything they can get, and cut them up for bait. But herring will catch more halibut than this trash will.

TESTIMONY OF N. O. CRAM.

PORTLAND, ME., October 6, 1886.

N. O. CRAM sworn and examined.

By Senator EDMUNDS:

Question. What is your age?—Answer. Seventy-three.

Q. Where do you reside?—A. Portland.

Q. What is your occupation?—A. Commission merchant.

Q. You deal in fish as well?—A. Yes, sir; I have for the last 40 years.

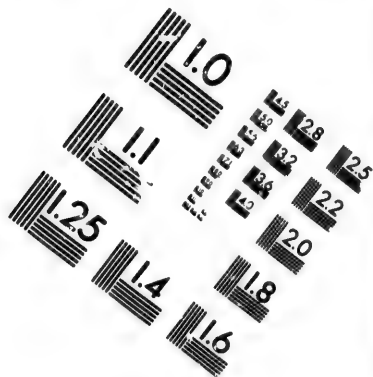
Q. Are you interested in any fishing vessels?—A. No, sir.

Q. Are you acquainted with the fishing business?—A. I think I am in some measure; I have had such connection with it that I have more or less knowledge.

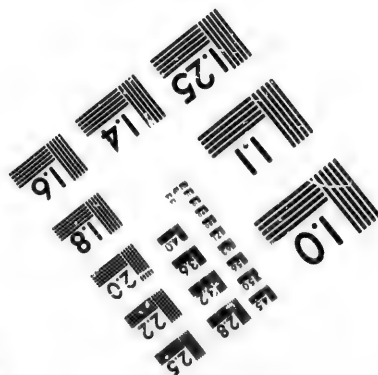
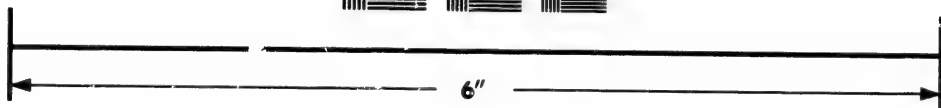
THREE-MILE LIMIT.

Q. From your knowledge of the fishing business in the Gulf of St. Lawrence and along the Dominion shores, what do you think is the value to American fishermen of the right to fish within three miles of the shore?—A. I shouldn't judge it was of great value, because in deeper water there are more fish; and then, again, there is great risk





A resolution test chart featuring various patterns of horizontal and vertical lines of increasing frequency. Each pattern is accompanied by a numerical value indicating its resolution. The values include 1.0, 1.1, 1.25, 1.4, 1.6, 1.8, 2.0, 2.2, 2.5, 2.8, 3.0, 3.2, 3.6, 4.0, 4.5, and 5.0. The patterns are arranged in a grid-like fashion, with some values appearing in multiple locations.



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in fishing within the limits; they lose their seines, and it is dangerous navigation. I don't consider it of any value.

FISHING TRADE.

Q. Do you receive consignments of fish from the British Provinces?—A. No, sir; I buy more particularly here, and have been in the habit of buying and shipping.

Q. Where do you ship to chiefly?—A. To Boston, New York, and Philadelphia, and west of that; to Cincinnati some.

Q. Do you make any foreign shipments?—A. No, sir; not of late years.

CLOSE SEASON.

Q. Have you any knowledge or information on the subject of what is called the close season for mackerel?—A. I think I have.

Q. Will you state it, please?—A. I think it is the death of summer fishing; it was so this year.

Q. Will you state why you think so?—A. Because they meet them south of New York and Sandy Hook, follow them up with seines, and head off the spawn fish. The large ones will escape; they have cleared out and left, and haven't shown themselves along the coast from spring until now, but they have in great abundance shown themselves down in North Bay; there has been an unusual supply there this year; some vessels have been very successful down there in taking them.

Q. Have our vessels in the southern fishery at the beginning of the mackerel season been more numerous this year than formerly?—A. I think they were quite as numerous, if not more so.

Q. But they have been in the habit of fishing when the mackerel first appeared south of New York for a good many years, have they not?—A. Yes, sir; but I don't believe there are fifteen sail of vessel on an average, out of Maine and Massachusetts, in ten years, that have paid their bills in that spring fishing. But the fact is that after lying at home all winter the crews become impatient and want to get away, and so the vessels are sent to the south for the early catch, but I am satisfied that it would be better for them not to go. Take this last year; not 10 per cent. have paid their bills, in my opinion. What fish they take are poor then. The vessels break up the schools and get them wild, and the most of them that don't go broad off will before they get up to the Georges and Shoals go off and come down below.

Q. What is the grade of fish that they catch first south of New York?—A. Very poor, indeed; No. 3.

Q. How would they be graded in the market here?—A. No. 3's, and very poor at that. If the mackerel could be allowed to take their natural course and come up along Nantucket and Cape Cod and then spawn all along undisturbed, the increase would show itself in two or three years very manifestly both in the quantity and in the quality.

QUALITY OF PROVINCIAL FISH.

By Senator SAULSBURY:

Q. You are in the habit of purchasing fish. I wanted to inquire the character of the fish you buy that are caught in the waters of the Dominion. Are they a better quality of mackerel than those caught on our shores?—A. I don't think the Canadian fish are so good.

Q. Is the average Canadian mackerel a better fish than those caught by us?—A. I don't think they compare with ours in quality. They get a great many poor fish off the Provinces.

Q. The reason of my inquiry is that you stated that you thought that the southern fishery deprived us of the best fish, and that the best fish did not come to our shores, but went up on the Dominion shores. But now I understand you to say that the quality of the Canadian fish is not superior to the fish caught in our waters?—A. No, sir; it is not. Those fish that have been driven off this year are being taken now, and are getting to be a better quality than they were a month or two ago. I have a great many of them that have come from the Bay, and they have been distributed around through the country. The quality of late has rather improved.

By Senator EDMUNDS:

Q. When you say that our fish are better in quality, I suppose you leave out this early catch of No. 3's, and speak of the catch later in the season?—A. Yes, sir; later in the season, when the fish are around here and are undisturbed, they appear very much better. Then, again, being so recently taken, they don't discolor, as in the North Bay. Those fish we get there, if they lie any length of time, become dark.

By Senator SAULSBURY:

Q. As a dealer in fish do you in fact pay more, or less, for fish caught in the Canadian waters than you do for the mackerel caught here?—A. We pay very much more for the mackerel caught here. I bought fish to-day and paid very much more for those that are taken here. They sometimes catch a few along here, but there has been no supply whatever. We pay very materially higher for those caught here this year than we do for the Bays.

Q. Do you deal in fresh fish?—A. No, sir.

By Senator FRYE:

Q. As a matter of fact I suppose there is better feed on our coast for mackerel than on the Canadian coast?—A. Oh, yes.

TESTIMONY OF CHARLES D. THOMS.

PORTLAND, ME., October 6, 1886.

CHARLES D. THOMS sworn and examined.

By Senator FRYE:

Question. Where do you live?—Answer. In Portland.

Q. How old are you?—A. Sixty-three.

Q. What is your business?—A. Fish business.

Q. Are you the owner of vessels?—A. I am.

Q. How many?—A. Nine, I believe; seven in the mackerel fishery, and two shore fishing.

Q. How long have you been engaged in shore fishing?—A. Forty-three years; since 1843.

MACKEREL, WHERE TAKEN.

Q. Where have you during those forty-three years pursued the business of fishing for mackerel?—A. Mostly on this shore.

Q. What proportion of the mackerel taken during that forty-three years have been taken on our shore?—A. Nine-tenths of them.

Q. How frequently have you been into Canadian waters for mackerel? I mean the waters off the Canadian coast.—A. I have not been into the Canadian waters for mackerel before this year for, I think, eight or nine years; I have had two in there this year.

Q. Where did those two fish in there this year?—A. In the Gulf of St. Lawrence.

THREE-MILE LIMIT.

Q. Within the three-mile shore line?—A. No, sir; that is, I suppose not. I instructed them not to when they went. I have a vessel down there now that cost me \$10,000.

Q. Is it safe to fish down there within the three-mile shore line with purse-seines?—A. No, sir; it is not.

Q. Could it possibly be profitable to take mackerel within the three-mile limit off the Canadian coast?—A. No, sir.

Q. Then you have no desire that your mackerel fishermen shall be permitted to go inside?—A. No, sir.

CODFISH.

Q. How is it about the codfisheries? Where have you fished for cod during the forty-three years?—A. I haven't had much to do with cod-fish during the last number of years.

Q. When you did?—A. My vessels are all mackerel catchers, except some small vessels that fish along shore. I have been running them winter fishing.

Q. Where have you pursued that?—A. Off here. Last year I ran to La Have, on the Nova Scotia shore.

BAIT.

Q. When you fished for cod off the Canadian shore have you had any occasion to buy bait from the Canadians?—A. No, sir.

Q. Do you wish for the privilege of buying bait?—A. Not any.

Q. Is it worth anything to the fishermen of Maine to be permitted to buy bait there?—A. I don't consider it so.

Q. Do you agree with these other gentlemen that have testified that in their judgment, it would be more profitable if they never went into Canadian ports for any such purpose?—A. Yes, sir; I do.

Q. Do you take your bait with you from here?—A. Yes, sir.

Q. What kind of bait?—A. Salt bait.

THE CASE OF THE ELIZA A. THOMS.

Q. What is the name of your vessel that got into trouble down there?—A. The Eliza A. Thoms; she is ashore in Malpeque.

Q. Did she go ashore in a storm?—A. Yes, sir; collided with another vessel, and they are ashore there together.

Q. That is one of the vessels that the insurance man (T. C. Lewis) was speaking about?—A. Yes, sir.

Q. Do you agree with him in his account of the impossibility of obtaining divers down there?—A. Yes, sir.

Q. And also that a diver will be sent from here?—A. Yes, sir.

Q. Have you had any instructions of any kind from Canada that you cannot be permitted to use a diver there?—A. No, sir. The insurance

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A. Yes, sir.

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agent there is doing the whole thing. My vessel had 140 barrels under deck, and they got a permit to land them. They thought they were going to ship them home, but when they came to ship them the authorities would not allow it, nor would they allow the seines or boats to be shipped at first, though they afterwards did give a permit to ship them through by rail.

Q. They seized them in the first place and put a keeper aboard?—A. Yes, sir.

Q. What have they done with the seines?—A. They are coming home by another vessel. They wouldn't allow the mackerel to come by vessel; they will come by rail, and it will cost us 85 cents a barrel to get them by rail.

Q. Why would they not allow them to come by vessel?—A. I don't know. I suppose it to be something about allowing a vessel to go in there and buy and reship materials.

Q. Do their fishermen have any difficulty of that kind here in our ports?—A. No, sir.

BAIT.

Q. Have they been buying as much bait here as they pleased this season?—A. Yes, sir; I have sold them in former years hundreds of dollars' worth; I haven't for the last three or four years.

Q. Did they buy a good deal this season?—A. Yes, sir.

Q. Have you any idea how much?—A. I should think some 6,000 or 7,000 barrels altogether.

FREE FISH.

Q. Do you want a treaty with Canada by which you shall be permitted to buy bait there, and hire men, and transship, as a price for giving a free market with us?—A. No, sir.

Q. Do you know anything that Canada can give to America which you would regard as an equivalent for a free market for Canada in this country?—A. I don't know of anything.

Q. What, in your opinion, would be the result of a provision in a treaty that should give a free market to Canada for fish in the United States for fifteen or twenty years?—A. It would ruin us; we should have to go out of the business, all of us.

NATIONALITY OF FISHERMEN.

Q. What proportion of the sailors employed in the fish business here in the State of Maine, so far as you know, are American citizens?—A. Probably in the mackerel fishing more than three-fourths; but in the cod-fishing probably there would not be quite so many; perhaps half.

Q. Do the Canadians who come here, the young men, make good citizens?—A. They make smart men.

Q. They are generally the more enterprising Canadians who come here, are they not?—A. Yes, sir.

Q. What is the general result when they come over and commence fishing here; do they become American citizens?—A. They have to become American citizens when they come to take charge of vessels.

Q. And I suppose most of them have an ambition to take command of vessels?—A. Yes, sir.

Q. And as a result do they not become naturalized?—A. They do; sir.

DUTY.

Q. You are a man of long experience in this business of fishing; who do you think pays the duty on fish, the Canadian, or the consumer?—
A. I think the Canadian has to pay it.

Q. Do you think there should be a duty on frozen fish?—A. Yes, sir.
Q. Why?—A. Because they mix up duty with everything we send there; we can't ship any fresh fish there unless we pay duty on them.

Q. We do ship some there and pay duty, do we not?—A. Yes, sir; our smoked fish go there, and they put such a duty on us that it costs all the market.

Q. When you ship fish to Canada who pays the duty?—A. We have to pay the duty; that is, it comes out of us. They pay it, but it comes out of us; it comes out of the fish. We used to ship fish to Canada years ago when they were free of duty and could make something out of them; but when this treaty expired they put such a duty on our fresh fish that we can't afford to do it now.

Q. That is, the duty which you pay and the price which you get for the fish will not allow you to do it?—A. No, sir.

Q. Do you know of any country to which we export fish where there is not a duty against us?—A. No, sir.

Q. You say that to allow Canada to have our markets free for 15 or 20 years would ruin us; why?—A. Because we can't compete with her.

Q. Why not?—A. They can furnish fish cheaper than we can.

CANADIAN COMPETITION.

Q. Why?—A. It does not cost them so much to catch the fish.

Q. Why?—A. Their vessels don't cost so much, and catching fish don't cost so much.

Q. Do they not pay as much wages as we do?—A. I don't think they do. Their fishermen are all glad to come here and fish because they say they can get more; when they come here they get their cash; we have to pay cash.

Q. Don't they?—A. I understand they do not; the fishermen that belong there tell me that they do not.

Q. Do they have to take store pay?—A. Yes, sir; and the salt fish are cured and the mackerel are cured by the women and boys.

Q. Do you know what those women and boys get?—A. I don't know but they don't get so much as our men here.

Q. What do you pay your men here?—A. All the way from \$2 to \$3 a day for experienced men.

Q. You do not employ any women, do you?—A. No, sir.

RELATIVE VALUE OF COD AND MACKEREL FISHERIES.

By Senator SAULSBURY:

Q. What is the relative value of the cod and mackerel fisheries?—
Which is the more valuable?—A. Mackerel.

Q. Is the aggregate amount of mackerel taken worth more than cod?—
A. Some years; this year the cod is worth more. But generally it is the other way, and there is the most money in mackerel.

FURTHER TESTIMONY OF ORIN B. WHITTEN.

PORTLAND, ME., October 6, 1886.

ORIN B. WHITTEN recalled and further examined.

By Senator FRYE:

Question. Have you information in regard to the seizure of another Portland vessel?—Answer. I have.

THE CASE OF THE GEORGE W. CUSHING.

Q. What is her name?—A. The schooner George W. Cushing.

Q. You may state the circumstances.—A. I saw the owner of the vessel to-night, and, by the way, he is confined to his house by a severe cold, so that he cannot appear before the committee. He stated that the vessel went down on the Nova Scotia shore and put into a place called Sand Point, some ten miles below Shelburne. Shelburne, I believe, is a port of entry. She got there some time during the evening, and two of the crew left the vessel and went on shore. It happened that the Terror, Captain Quigley, was there, and he boarded the schooner in the night and ordered her up to Shelburne. At Shelburne he placed her alongside the wharf, chained her to the wharf, and there he kept her some ten days, and they paid a fine of \$400, and she was released. The vessel came home, the trip was broken up, and the crew got dissatisfied and disheartened. That is all that trip amounted to.

Q. What did she go in there for?—A. I think he told me that it was their intention to go in there for bait. They had the impression, from what they had heard from time to time, that they had the right to enter; but still she didn't go in.

Q. She had not done anything and had not obtained anything?—A. Hadn't done or obtained anything, only two of the crew had gone ashore.

CASE OF THE C. B. HARRINGTON.

Q. Was there another Portland vessel seized?—A. One called the C. B. Harrington was seized about the same time, and I know that she paid a fine of \$400.

Q. Do you know what she did?—A. I think she bought some bait.

Q. Do you know of any other Portland vessel?—A. Those are the only ones I know.

Q. Other than those that have been mentioned?—A. That is all.

Q. The owner of the George W. Cushing, with whom you had the interview, was not able to come here on account of sickness?—A. He was not able to come on account of suffering from a severe sore throat and cold.

APPENDIX.

LETTER FROM THE COLLECTOR OF THE PORT OF BOSTON, WITH ANSWERS TO QUESTIONS SUBMITTED IN WRITING BY THE SUBCOMMITTEE.

CUSTOM-HOUSE, BOSTON, MASS.,
Collector's Office, October 5, 1886.

SIR: With further reference to your letter of the 28th ultimo, I have the honor to transmit with this, in response to your request, the following described statements:

A.—Replying to inquiries, (1) The whole number of vessels licensed at this port since January 1, 1885, for the fishing trade; (2) The aggregate tonnage of the same; (3) Whether any of them are propelled by steam.

A note is added to this statement in reply to your third inquiry, that the licenses issued were exclusively to sailing vessels. Also, reply, in part, to your sixth inquiry, that it is estimated that not exceeding 6 of the vessels licensed for the fisheries had permits to "touch and trade," and that there were not any other trading papers issued to such licensed vessels.

B and C.—Replying to inquiries, (4) The whole number of vessels cleared from this port for ports in the British North American Provinces from January 1, 1885, to September 30, 1886; (5) American and foreign vessels, separately, class, number, and tonnage of each class, and whether in ballast or with cargoes; (6) None of the merchant vessels named in statements B and C had fishing licenses.

D.—Replying to inquiries, (7) The total number of pounds of fresh fish imported into this port from the British North American Provinces January 1, 1885, to September 30, 1886. There were no duties assessed upon fresh fish, excepting upon fresh sturgeon, as such fish are not for immediate consumption in the condition in which they are imported. (8) The total number of barrels or pounds, respectively, of pickled or salted fish imported from the same ports during the same time, with the amount of duty to which the several classes were subject.

Very respectfully,

L. SALTONSTALL,
Collector.

Hon. GEO. F. EDMUNDS,
Chairman United States Senate Committee, &c.,
Tremont House, Boston.

A.

CUSTOM-HOUSE, BOSTON, MASS.,
Collector's Office, September 30, 1886.

Vessels licensed at the port of Boston for the "fisheries" from January 1, 1885, to date including licenses renewed in 1886.

	No.	Tonnage
Belonging in this customs district	92	4,496
Belonging in other customs districts	7	48
Total	99	4,544

All sailing vessels.

It is estimated that not exceeding 6 of the above vessels had permits to "touch and trade." There were not any other trading papers issued to the above vessels.

B and C.

CUSTOM-HOUSE, BOSTON, MASS.,
Collector's Office, September 30, 1886.*Vessels cleared from the port of Boston for the British North American Provinces from
January 1, 1885, to date.*

Class.	In ballast.		With cargoes.		Totals.	
	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.
American:						
Steamers	1	428	158	130,717	159	131,145
Ships	9	4,431	1	1,098	1	1,098
Barks	16	5,806	4	1,318	20	7,124
Brigs	351	60,601	42	5,737	393	72,308
Schooners	10	170	1	17	11	187
Total American	387	77,496	267	139,217	504	216,713
Foreign:						
Steamers	16	15,902	158	61,211	174	77,113
Ships	4	6,353			4	6,353
Barks	45	14,867	17	5,640	62	20,513
Brigs	98	16,111	80	14,481	184	30,692
Schooners	1,073	116,650	1,061	103,013	2,134	220,572
Sloops						
Total foreign	1,236	169,892	1,322	185,051	2,558	354,943

RECAPITULATION.

American vessels	387	77,496	267	139,217	504	216,713
Foreign vessels	1,236	169,892	1,322	185,051	2,558	354,943
Total	1,623	247,388	1,529	324,268	3,182	571,656

None of the above had fishing licenses.

D.

*Importations of fish from the British North American Provinces into the customs district of
Boston and Charlestown, January 1, 1885, to September 30, 1886.*

[All of the fish subject to duty were imported since July 1, 1885.]

Kinds.	Free of duty.		Subject to duty.		Rate of duty.	Amount of duty.
	Quantity.	Value.	Quantity.	Value.		
Fresh salmon..... pounds	201,884	\$26,351				
All other kind of fresh fish, pounds	2,731,003	62,200				
Salmon, canned, preserved, pounds		274,348				
Red haddock, hake, and pollock, dried, smoked or pickled..... pounds	2,971,822	87,230	6,558,336	\$155,844	‡ c. per lb.	\$32,791
Salmon, dried, or smoked, pounds	1,786,750	22,804	2,605,449	54,370	‡ c. per lb.	13,027
Pickled..... barrels	15,707	47,182	26,632	90,118	\$1 per bbl.	26,632
Salmon, pickled..... do	19,280	113,862	56,326	352,703	\$2 per bbl.	112,652
Salmon, pickled..... do	687	8,190	2,843	35,227	\$2 per bbl.	5,686
Salmon, pickled..... do			5,683	1,010	\$1 per bbl.	1,010
Salmon, pickled..... do			1,010	48,855	Estimated at 25 per c.	12,214
Total..... { pounds..	7,091,459	742,535	{ 9,163,785	742,816		204,932
{ barrels..	35,680		{ 87,731			

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MASS.,
October 5, 1886.re the honor to
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Collector.TON, MASS.,
September 30, 1886.

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No.	Tonnage.
92	4,400
7	40
90	4,400

permits to "to
o above vessels

LETTER FROM THE COLLECTOR OF THE PORT OF PORTLAND, ME., WITH ANSWERS TO QUESTIONS IN WRITING SUBMITTED BY THE SUBCOMMITTEE.

CUSTOM-HOUSE, PORTLAND, ME.,
Collector's Office, October 9, 1886.

SIR: I have the honor to acknowledge the receipt of your communication of the 6th instant requesting information on matters having reference to the "Fisheries question, &c."

Herewith I respectfully submit answers to your inquiries in the order and number in which you propound them, viz:

First. "The whole number of vessels licensed at this port since January 1, 1885, to this date for the fishing trade."

Answer. One hundred forty-nine.

Second. "The aggregate tonnage of the same."

Answer. Seven thousand five hundred and sixty-nine and ninety-seven one-hundredths gross, 6,989.62 net.

Third. "Whether any of them are propelled by steam."

Answer. Three propelled by steam; 478.21 gross tons, 290.81 net tons.

Fourth. "The whole number of vessels cleared from this port for any of the ports of the British North American Provinces since the same date."

Answer. Forty-eight American and 293 British vessels.

Fifth. "The character of said vessels, respectively, whether steam or sail; as to the sailing vessels, the kind of craft and the total tonnage."

Answer. The American vessels cleared were engaged in the foreign carrying trade, and were sailing vessels; total tonnage, 12,341. The British vessels, part of them engaged in bringing fish to this market, fresh and salt, and returning with ballast only, and part of them bringing lumber, plaster, and coal, and returning in ballast. These were all sailing vessels, schooner rigged; tonnage, 36,059.

Sixth. "Whether any such fishing vessels had also trading papers of any kind, either regular clearances or other, and whether any of such merchant vessels had fishing licenses."

Answer. Seven vessels licensed for the fisheries took a permit to "touch and trade," but no clearance or other papers, except usual enrollment and license of vessel. The date and names of the vessels taking "permits to touch and trade" within the period named are as follows, viz: January 1, 1885, schooner Rozella; August 7, 1885, schooner J. W. Bickford; January 11, 1886, schooner Forest Maid; May 15, schooners George W. Pierce and Gertie May; May 27, schooner Annie Sargent; June 7, 1886, schooner Lilla B. Fernald.

Seventh. "The total number of pounds of fresh fish imported into this port during the same time, with the total amount of duties paid thereon."

ANSWER.

Description.	Quantity.	Duty.
Cod..... pounds..	12,028	Free.
Mackerel..... do.....	20,000	Do.
Salmon..... do.....	75	Do.
Halibut..... do.....	1,400	Do.
Live eels..... do.....	20,880	Do.
Live lobsters..... do.....	100,700	Do.
Canned lobsters..... pounds..	2,806,713	Do.
Frozen herring..... do.....	427,000	Do.

Eighth. "The total number of pounds of salt fish imported from the same provinces, with the total amount of duty thereon, together with a statement, so far as practicable, of the various kinds of fish of each class."

ANSWER.

Description.	Quantity.	Duty.
	<i>Pounds.</i>	<i>Free.</i>
Dried herring.....	7,750	Free.
Cod, salted.....	21,596	Free.
Dried fish (kind not enumerated).....	803,232	\$4,015 16
Salmon, canned.....	1,728	*30 25
Mackerel, canned.....	8,120	*11 75
Herring, salted.....	324,750	*1,623 78
Pollock, dried.....	71,736	*358 68
Cod, dried.....	177,037	*885 20

* Under old treaty.

I am, very respectfully,

SAM. J. ANDERSON,
Collector.

Hon. GEORGE F. EDMUNDS,
U. S. Senate, Chairman Subcommittee to Investigate Fisheries, &c.,
Burlington, Vt.

STATISTICAL AND OTHER INFORMATION SUBMITTED TO THE SUBCOMMITTEE BY JAMES GIFFORD, Esq., DEPUTY COLLECTOR AT PROVINCETOWN, MASS., IN CONNECTION WITH HIS TESTIMONY.

FISHING BOUNTIES.

"The act 45, chapter 18, authorizes the payment of a sum of \$150,000 as an aid to develop the sea-fisheries, to encourage the building and fitting out of improved fishing craft, as well as to ameliorate the condition of the fishermen. This grant is to be expended under regulations of the governor and council, and in such installments as may be directed in each year.

"An order in council, adopted 11th of December, 1882, provides that (1) Canadian fishing vessels of 10 tons and upwards, which have been engaged in the sea-fisheries during a period of three months, shall be entitled to a bounty of \$2 per ton up to 50 tons, one-half of said bounty being payable to the owner and one-half to the crew; (2) Canadian fishing boats which have been engaged in the sea-fisheries during a period of three months and caught not less than 2,500 of sea fish per man, exclusive * * * shall be entitled to receive a bounty at the rate of \$2.50 per man, one-fifth being payable to the owner or owners of the boat, and four-fifths to be divided equally between the men."

The above order relating to boats was superseded by another order in council, passed May 2, 1883, doubling the payments to boats, i. e., making the bounty \$5 per man, boat fisherman, and that, so far as I am informed, is the amount now paid. The boat must have not less than 14 feet keel to entitle her to the bounty.

Under foregoing provisions there was paid in 1873—

On tonnage of vessels, 27,611 ton, 786 vessels.....	\$54,975 50
On tonnage of 11,225 boats.....	117,309 97
	172,285 47

WITH ANSWERS
COMMITTEE.

LAND, Mr.,
October 9, 1886.
Communication of the
the "Fisheries ques-

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January 1, 1886, to

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into this port during

Quantity.	Duty.
12,028	Free.
20,000	Do.
75	Do.
1,400	Do.
26,880	Do.
193,700	Do.
2,806,713	Do.
427,000	Do.

Total annual value of Dominion fisheries and amount of same imported into United States.

Years.	Total product.	Imported.	Years.	Total product.	Imported.
1872.....	\$7,532,200	\$1,020,081	1879.....	\$13,215,678	1,586,250
1873.....	10,754,998	1,309,900	1880.....	18,529,254	1,718,345
1874.....	10,811,112	1,703,503	1881.....	15,817,162	2,138,645
1875.....	10,754,998	2,153,106	1882.....	16,824,092	2,186,442
1876.....	10,347,880	1,648,116	1883.....	16,598,103	2,471,112
1877.....	11,147,590	1,400,730	1884.....	17,852,721	2,633,617
1878.....	12,029,937	3,232,406			

1884..... \$17,852,721
Deduct 1872..... 7,532,200

Leaving..... 10,320,521

Increase of product, and a gain of \$4,613,566 in importations of fish into the United States.
Above is compiled from United States reports on Commerce and Navigation and from Canadian Government reports on fisheries.

List of fishing vessels to which were granted "permits to touch and trade" in the district of Barnstable, Mass., during the year 1886.

[37 vessels.]

Name of vessel.	Gross tonnage.	Name of vessel.	Gross tonnage.
Louisa A. Grout.....	155.77	Millie Washburn.....	74.20
Arequipa.....	71.96	Charles F. Atwood.....	69.80
Lotta Bell.....	96.10	Frank G. Rich.....	105.50
Bell Bartlett.....	75.62	Nellie M. Snow.....	66.00
Jessie T. Matheson.....	137.74	Chas. B. Hawes.....	75.40
George D. Paine.....	108.19	Nannie E. Waterman.....	73.00
Mary E. Nason.....	108.34	H. W. Pierce.....	73.00
Pearl Nelson.....	123.16	Highland Light.....	92.00
Rebecca R. Nickerson.....	130.66	Eddie Davidson.....	82.00
Allie B. Dyer.....	90.48	Nathan Cleaves.....	70.00
Bucephalus.....	69.91	Gertrude Summers.....	64.00
Gertrude.....	72.27	Pleiades.....	82.00
Clara L. Sparks.....	101.47	Walter L. Rich.....	72.00
Minnesota.....	62.76	Carrie G. Crosby.....	72.00
East Wind.....	97.20	C. A. Sanford.....	65.00
Teresa D. Baker.....	87.23	Clara S. Cameron.....	104.00
Isaac Keene.....	77.70	Total.....	3,455.00
John A. Matheson.....	154.42		
Grace F. Littleton.....	169.42		
Samuel Ober.....	67.66		

List of vessels in the district of Barnstable engaged in the "whale fishery," 1885.

[12 vessels.]

Name.	Class.	Gross tonnage.	Name.	Class.	Gross tonnage.
Agate.....	Schooner	81.00	Gage H. Phillips.....	Schooner	104.00
Aloyone.....	do	92.22	Mary G. Curran.....	do	104.00
Antarctic.....	do	100.60	Quickstep.....	do	68.00
Baltic.....	do	84.28	Rising Sun.....	do	110.00
Bloomer.....	do	73.82	William A. Grosier.....	do	110.00
D. A. Small.....	Brig	118.82	Total.....		1,107.00
Ellen Rigpath.....	Schooner	66.77			

List of vessels (C)

Name.

Augustus W. Yates
Forest Queen.....
Josephine.....
Mary Williams.....
School Girl.....
Carrie E. Tyler.....
Little Jennie.....
Daylight.....
Island Belle.....
Daniel Boone.....
Florence Pearl.....
Er Landall.....
Little Bessie.....
Wanderer.....
Mary Jane.....
Grey Eagle.....
Mary Williams.....
Nautilus.....
Lydia Tarr.....
James L. Brightman.....
Fisher.....
Eve.....
Luna Phillips.....
Harry Montell.....
Wm. H. Davidson.....

List of vessels (Hog)

Name.

Allice Raymond.....
Oliver Cromwell.....
Phenomena Manta.....
Fring Cloud.....
Coralio.....
Willie L. Swift.....
Ann Elias.....
Mertie and Delmar.....
Willie Irving.....
Battie and Lottie.....
Clara S. Cameron.....
C. A. Sanford.....
Nautilus.....
Charlotte Brown.....
Anna M. Nash.....
Jane Somes.....
Rebecca J. Evans.....
Fannie T. Campbell.....
Kate Florence.....
Geo. A. Upton.....
Lala E. Wilbur.....
Lala Linwood.....
Tokalita.....
Pora Temple.....
M. & L. Chase.....
J. A. Stetson.....
Am H. Pervere.....
Gertrude Summers.....
Mary Chaplin.....
Katie Davidson.....
Abbie Frankford.....
Fannie B. Waterman.....
Walter L. Rich.....
Lutie Smith.....
Frances B. Hiller.....
Frank G. Rich.....
Nathan Cleaves.....
Tom A. Newcomb.....

List of vessels (under 20 tons) licensed in the district of Barnstable since January 1, 1885, for the "fishing trade."

[48 vessels.]

Name.	Class.	Gross tonnage.	Name.	Class.	Gross tonnage.
Augustus W. Yates	Sloop	16.22	Nellie K	Sloop	10.76
Forest Queen	Schooner	8.74	Melrose	do	11.00
Josephine	Steamer	13.83	Mala	do	5.80
Mary Williams	Schooner	11.58	Chasie	do	8.45
School Girl	do	9.08	Bivalve	Schooner	19.23
Carrie E. Tyler	Sloop	7.58	Pontiac	do	9.83
Little Jennie	Schooner	12.20	Clytie	do	16.81
Daylight	do	10.25	Franklin	do	10.97
Island Belle	do	10.12	Sea Foam	do	16.50
Daniel Boone	do	15.04	Red Rover	Sloop	9.92
Florence Pearl	do	10.02	John W. Smart	Schooner	18.41
Eva Lendall	do	12.10	Eliza A. West	do	9.42
Little Beatie	Sloop	9.03	Henry Cole	do	16.91
Wanderer	Schooner	8.13	Whistler	do	5.84
Mary Jane	do	9.98	Lurline	Sloop	8.11
Grey Eagle	do	15.84	Arthur H	do	18.04
Mary Williams	do	12.11	Della	Schooner	10.34
Vanilla	do	0.94	O They Know Me	Sloop	10.27
Lydia Tarr	Sloop	10.50	William H. Lewis	Schooner	18.81
James L. Brightman	do	16.28	Amelia Powell	Sloop	9.33
Patner	Schooner	12.82	Luther Eldridge	Schooner	15.24
Nat	Sloop	12.90	Star	Sloop	10.22
Louis Phillips	Schooner	14.12	Waverly	do	7.49
Harry Montell	do	9.45			
Vm. H. Davidson	do	10.49	Total		560.01

List of vessels licensed in the district of Barnstable since January 1, 1885, for the "fishing trade."

[178 vessels.]

Name.	Class.	Gross tonnage.	Name.	Class.	Gross tonnage.
Alto Raymond	Schooner	69.37	H. W. Pierce	Schooner	73.91
Oiver Cromwell	do	63.07	Carrie G. Crosby	do	58.31
Phelonia Manta	do	69.59	Highland Light	do	92.34
Plying Cloud	do	59.59	Nellie M. Snow	do	64.56
Colorado	do	58.26	Effie T. Kemp	do	62.94
Willie L. Swift	do	100.68	Chas. R. Washington	do	75.04
Ann Eliza	do	58.43	Cora Morrison	do	88.89
Bertie and Delmar	do	78.42	Edward Rich	do	74.0
Willie Irving	do	74.59	Ocean Ranger	do	57.20
Battle and Lottie	do	101.44	Waldron Holmes	do	69.08
Clara S. Cameron	do	104.46	A. Lincoln	do	46.76
C. A. Sanford	do	85.68	Gen. Scott	do	65.56
Vanilla	do	49.58	Vandalia	do	52.76
Charlotte Brown	do	83.51	John M. Fiske	do	80.76
Anna M. Nash	do	86.61	Millie Washburn	do	74.23
Isaac Somes	do	68.31	East Wind	do	97.20
Rebecca J. Evans	do	78.29	Ellie B. Dyer	do	90.48
Saile T. Campbell	do	57.58	Bell Bartlett	do	75.62
Lisa Florence	do	102.04	Freddie W. Alton	do	86.21
Lula E. Wilbur	do	105.25	Lottie Bell	do	66.10
Joe A. Upton	do	58.29	Lizzie Colby	do	150.43
Lula Linwood	do	95.90	Star King	do	65.95
Isabelita	do	61.83	Mary E. Mason	do	108.34
Pora Temple	do	52.59	Gertrude	do	72.27
M. & L. Chase	do	41.67	Chanticleer	do	60.84
Joe A. Stetson	do	65.18	Ada K. Damon	do	94.22
Am H. Pervore	do	98.31	Teresa D. Baker	do	87.23
Bertrude Summers	do	64.41	Isaac Keene	do	77.76
Mary Chapin	do	36.92	Freeman	do	93.55
Belle Davidson	do	82.08	Benj. F. Rich	do	68.84
Abbie Frankford	do	70.50	Arthur Clifford	do	84.55
Wanda E. Waterman	do	79.75	Spring Bird	do	80.02
Lula E. Rich	do	79.75	G. W. Bentley	do	113.18
Francis B. Hiller	do	77.21	Charley F. Mayo	do	82.31
Frank G. Rich	do	104.44	Leading Breeze	do	69.51
Isaac Cleaves	do	105.50	Ella May	do	96.44
Thos. A. Newcomb	do	79.93	Gracie M. Parker	do	81.58
		69.49	Willie A. McKay	do	169.63

List of vessels licenced in the district of Barnstable since January 1, 1885—Continued.

Name.	Class.	Gross tonnage.	Name.	Class.	Gross tonnage.
Georgie D. Paine	Schooner	168.19	Ethel Swift	Schooner	141.15
Pearl Nelson	do	123.16	Chas. H. Hodgdon	do	117.22
Nellie Swift	do	134.29	Sarah R. Smith	do	69.49
Ellen A. Swift	do	131.62	Willie Erdix	do	33.27
Carrie C. Miles	do	106.69	Minnesota	do	62.76
Florence	do	63.05	J. E. Bowly	do	70.16
Wenonah	do	65.14	Saml. Ober	do	67.60
William Matheson	do	111.07	Edith Linwood	do	170.74
John M. Ball	do	86.54	Jessie T. Matheson	do	137.74
Boccephalus	do	69.91	John Simmons	do	73.29
Emma A. Higgins	do	94.18	Franklin Woodruff	do	134.33
Carrie W. Clark	do	130.46	Clara L. Sparks	do	101.47
Edith McIntyre	do	100.17	Lottie Byrnes	do	97.03
Hattie D. Linnell	do	84.49	Benj. F. Crocker	do	73.51
Emma F. Chas	do	65.36	Cora Hay	do	163.75
Lettie S. Hawes	do	32.05	Richard S. Newcomb	do	69.66
Geneva Mertis	do	44.94	Maud B. Witherell	do	107.90
Florine F. Nickerson	do	55.58	Leon S. Swift	do	155.00
Leander F. Gould	do	70.85	Emma O. Curtis	do	64.72
Prince Leboa	do	66.39	Blondell	do	65.17
Edwin A. Grosley	do	55.07	Rebecca R. Nickerson	do	136.55
D. W. Hammond	do	59.40	Alice	do	88.61
A. S. & R. Hammond	do	69.96	Ella F. Long	do	72.61
Willie Lincoln	do	24.25	G. M. Hopkins	do	85.74
Lettie Linwood	do	68.29	Langwood	do	89.54
Geo. A. Leland	do	99.03	Allos	do	69.94
Ernie P. Newcomb	do	108.91	Gracie H. Benson	do	93.19
Edw. J. H. Norton	do	56.51	John A. Matheson	do	154.42
Lizzie D. Barker	do	75.99	A. Paine	do	55.27
NH Desperandum	do	79.37	Anna E. Kemp	do	163.90
Mary E. Whorf	do	64.33	Frank Butler	do	74.53
Addie F. Cole	do	76.30	William B. West	do	67.89
Joe P. Higgins	do	91.09	Lizzie W. Matheson	do	194.52
Newel B. Hawes	do	69.31	John Somes	do	61.63
Benjamin Oliver	do	78.06	Mary Eva	do	41.11
Lizzie Williams	do	60.71	Mary Snow	do	70.33
Lucie M. Jenkins	do	73.33	Grace F. Littleton	do	109.42
Pleiades	do	82.08	Carrie D. Allen	do	151.63
Chas. F. Atwood	do	69.82	Mary Steele	do	69.94
Maria Webster	do	56.15	Maggie Mitchell	do	39.78
Tidal Wave	do	53.74	Fred and Limer	do	32.04
Willie A. Jewell	do	70.63	Chas. McDonald	do	67.71
Crystal Wave	do	37.12	Zephyr	do	48.94
Stowel Sherman	do	92.49	Grenada	do	50.75
Joseph A. Manta	do	70.26	Clyde	do	78.04
Emma J. Gott	do	53.29	Daniel Webster	do	24.16
Minnie F. Paine	do	20.40	Maria Webster	do	33.16
Lucknow	do	56.53	L. O. Foster	do	35.29
Freddie Walter	do	82.40	Adeline	do	43.54
Arquippa	do	71.75	Angella B. Nickerson	Steamer	46.27
Winged Arrow	do	58.85			
Louisa A. Grout	do	155.77	Total		14,509.86

List of vessels cleared for the British North American Provinces from the district of Barnstable, since January 1, 1885, to October 1, 1886.

[4 vessels.]

Name.	Gross tonnage.
United States Schooner Ellen A. Swift	131.61
United States Schooner Lotta Bell	96.17
United States Schooner Louisa A. Grout	155.77
United States Schooner Willie A. McRay	168.00
Total	551.55

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Total number of fisheries, 425.

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STATEMENTS SUB

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Walfleet

Boston

Princeton

South Chatham

Harwich

Chatham

Plymouth

Rockport

Plymouth

Newburyport

Total

Portland

Booth Bay

Southport

North Haven

Camden

Vinal Haven

Deer Isle

Eastport

Swan's Island

Total

Grand total

Catch mostly pa

Catch packed at

APPROXIMATE STATEMENT OF VESSEL FISHERIES OF GLOUCESTER DISTRICT IN 1886.

[From information by Capt. S. J. Marín, of the United States Fish Commission.]

Total number of vessels belonging to Gloucester district, 511; total engaged in the fisheries, 425.

One hundred and twenty-one vessels engaged in mackerel fishery; 98 exclusively and 23 in other fisheries as well; 86 of these engaged in southern spring fishery, 42 in New Eng. and shore fishery. Others will fish, 95 in the Gulf of St. Lawrence, show only 26 mackerel vessels that did not enter North Bay.

Forty-two vessels fish for cod on Grand and Western Banks, of which 25 fish exclusively on these banks, and 17 engage in other fisheries at other times.

One hundred and sixty-two vessels fish for cod on Georges Bank, of which 131 fish there exclusively, and 31 engage in other fisheries at other times.

One hundred and ten vessels engaged in the shore fisheries, including winter haddock, fresh haddock, herring, swordfish, &c., of which 46 are engaged exclusively in shore fishing proper, and 20 in various other coast fisheries, including trap, swordfish, herring, fresh haddock, winter haddock, &c.; the remaining 44 are engaged in the various offshore fisheries during a portion of the year.

Forty-four vessels are engaged exclusively in the halibut fishery, and 14 others have fished to a limited extent for halibut during part of the year. Of those engaged regularly in the fishery, 35 fish on Grand Banks, Quereau, and La Have, 4 fish on the eastern part of Georges, 2 at Greenland, and 6 at Iceland; those at the two last-named places landing their fish salt.

STATEMENTS SUBMITTED BY W. A. WILCOX, ESQ., MANAGER AMERICAN FISH BUREAU, GLOUCESTER, MASS., IN CONNECTION WITH HIS TESTIMONY.

Mackerel catch by the New England fleets during 1884, as reported to the American Fish Bureau.

[Fresh mackerel not included.]

Ports.	North Bay fleet.	Shore fleet.	Total number of sail.	Total number of crew.	North Bay catch.	Shore catch.	Total catch, in sp. lbs.
Massachusetts:							
Gloucester.....	58	112	170	2,770	15,299	172,630	187,929
Wellsfleet.....	8	22	30	490	430	31,570	32,000
Boston.....	8	13	21	336	1,200	46,442	47,642
Provincetown.....	5	11	16	240	435	17,859	18,294
South Chatham.....		6	6	80		4,523	4,523
Harwich.....	2	4	6	96	85	6,612	6,697
Cohasset.....	2	3	5	75	258	7,395	7,653
Fairhaven.....		1	1	13		140	140
Rockport ¹	2	6	8	90		60	60
Plymouth ²		2	2	30			
Newburyport ³		2	2	27			
Total.....	85	182	267	4,237	17,707	267,231	304,938
Maine:							
Portland.....	3	42	45	720	1,000	138,000	139,000
Booth Bay.....	1	8	9	135	60	22,915	23,975
Southport.....	2	6	8	125	70	7,630	7,700
North Haven ⁴	14	3	17	255			
Cumder ⁵	1	3	4	42	80		80
Vinal Haven ⁶	1	2	3	45	140	85	225
Deer Isle ⁷		2	2	32			
Eastport.....		2	2	20		500	500
Swan's Island.....		2	2	30			
Total.....	22	70	92	1,404	1,950	160,130	171,080

TOTAL NEW ENGLAND FLEET.

1884.....	107	252	359	5,641	19,657	456,361	476,018
1885.....	69	295	358	5,494	28,660	198,019	226,685
1886.....	1	341	342	5,283	275	378,588	378,863
1887.....	3	295	298	4,258	470	291,187	291,657
1888.....					26,633		327,300
Grand total.....					75,701		1,797,873

¹ Catch mostly packed at Gloucester.

² Catch packed at Boston.

³ Catch mostly packed at Portland.

⁴ Catch included in that of Portland.

Prices of mackerel in Massachusetts the first week in September, from 1830 to 1884.

Year.	No. 1.	No. 2.	No. 3.	Year.	No. 1.	No. 2.	No. 3.
1830.	\$5 00	\$4 50	\$2 62	1864.	\$30 00	\$20 00	
1831.	5 75	4 75	2 62	1865.	32 00	15 00	
1832.	5 00	4 00	2 75	1866.	22 75	13 25	
1833.	5 72	4 72	2 83	1867.	17 00	12 25	
1834.	5 72	4 72	3 35	1868.	17 00	13 00	
1835.	7 00	6 00	4 00	1869.	23 00	11 50	
1836.	9 00	8 00	5 00	1870.			
1837.	7 75	6 50	4 12	Bay	21 50	11 00	
1838.	11 00	9 25	5 50	Shore	23 00	9 75	
1839.	12 50	10 50	7 00	1871.			
1840.	12 75	10 50	5 50	Bay	10 50	7 50	
1841.	1 70	10 00	0 00	Shore	11 25	7 25	
1842.	9 30	6 00	4 00	1872.			
1843.	10 12	8 12	6 00	Bay	11 50	9 25	
1844.	9 50	7 50	5 50	Shore	14 50	9 50	
1845.	13 00	10 50	6 87	1873.			
1846.	0 12	6 25	3 87	Bay	14 75	12 25	
1847.	12 75	8 25	4 25	Shore	20 00	12 25	
1848.	9 00	6 00	3 87	1874.			
1849.	12 00	7 00	5 50	Bay	15 00	8 00	
1850.	7 12	8 12	5 00	Shore	13 25	9 00	
1851.	0 00	6 50	5 12	1875.			
1852.	9 00	7 00	6 00	Bay	14 00	11 00	
1853.	11 50	7 50	7 50	Shore	16 25	10 25	
1854.	15 00	12 25	5 00	1876.	15 00	6 75	
1855.	19 00	11 00	6 25	1877.	16 50	12 50	
1856.	13 00	8 00	6 00	1878.	14 00	8 00	
1857.	15 00	12 50	8 50	1879.	16 00	5 00	
1858.	15 50	12 50	8 50	1880.	14 00	7 00	
1859.	14 50	12 50	8 50	1881.	14 00	6 00	
1860.	16 00	8 50	5 00	1882.	18 00	11 00	
1861.	8 50	4 50	2 75	1883.	20 00	14 00	
1862.	8 25	6 00	4 50	1884.	14 00	10 00	
1863.	14 00	9 25	6 50				

0 to 1884.

Tonnage of vessels of the United States employed in the whale, cod, and mackerel fisheries, from 1860 to 1883, inclusive.

No. 2.	No. 1.	Year ending June 30—	Whale fisheries.	Cod fisheries.	Mackerel fisheries.	Total.
			Tons.	Tons.	Tons.	Tons.
\$20 00		1860	168,841	136,658	26,111	329,605
15 00		1861	145,734	137,846	54,795	338,375
13 25		1862	117,714	133,601	80,596	331,911
12 25	7 50	1863	93,228	117,290	51,019	261,537
13 00		1864	35,145	108,742	35,400	254,386
11 50		1865	90,516	65,185	41,209	196,910
11 00		1866	105,170	51,642	46,589	203,401
9 75		1867	52,384	44,567	31,498	128,449
7 50		1868	71,343	83,887		155,230
7 25		1869	70,202	62,704		132,906
9 25	7 50	1870	67,954	91,480		159,434
9 50		1871	61,490	92,865		154,355
12 25	9 50	1872	54,608	97,515		149,153
12 50		1873	44,755	109,519		154,274
8 00	1 00	1874	39,108	78,290		117,398
8 00	1 00	1875	36,269	80,207		116,476
11 00		1876	39,116	87,802		126,918
10 25	7 50	1877	40,593	91,085		131,678
10 25	7 50	1878	39,700	86,547		126,247
6 75	5 00	1879	40,028	79,885		119,913
12 50	8 00	1880	38,408	77,688		115,946
8 00	5 00	1881	38,551	76,137		114,688
7 00	4 00	1882	32,503	77,863		110,365
14 00	10 00	1883	32,414	95,036		127,453

¹ The tonnage for 1865 and 1866 is partly by new measurement and partly by old.

NOTE.—The mackerel licenses have not been issued separately since 1867, when a general fishing license was provided to replace cod and mackerel fisheries.

Mackerel catch, 1881 to 1885.

Year.	Bay.	Total.
1881.....	Tons. 480	Tons. 391,657
1882.....	275	378,361
1883.....	28,086	220,085
1884.....	19,657	470,018
1885.....	26,633	324,360
Total.....	75,711	1,707,583

Catch in North Bay, 4½ per cent.

Mackerel inspection in Massachusetts from 1809 to 1885, and the total value of each year's inspection from 1830 to 1884.

Year.	Barrels of mackerel inspected.		Year.	Barrels of mackerel inspected.	
	Total.	Total value.		Total.	Total value.
1809.....	8,225		1847.....	251,917½	\$1,250,958
1810.....	12,552½		1848.....	300,130½	1,858,500
1811.....	17,401		1849.....	208,950	1,500,130
1812.....	5,881		1850.....	242,572	1,777,517
1813.....	3,750½		1851.....	329,244½	2,249,511
1814.....	1,839		1852.....	198,120	1,401,923
1815.....	16,059½		1853.....	133,240½	1,207,975
1816.....	30,969		1854.....	135,240½	1,315,353
1817.....	37,362		1855.....	211,558	2,139,884
1818.....	46,348		1856.....	214,312½	2,064,531
1819.....	100,111		1857.....	168,705½	2,102,738
1820.....	115,641		1858.....	131,602½	1,732,544
1821.....	111,609½		1859.....	99,715½	1,255,073
1822.....	160,294½		1860.....	235,685½	2,251,067
1823.....	145,006		1861.....	194,283½	1,116,531
1824.....	191,650½		1862.....	260,864½	1,507,410
1825.....	254,384½		1863.....	306,942½	2,878,775
1826.....	158,740½		1864.....	274,357½	5,935,325
1827.....	190,304½		1865.....	256,796½	4,739,840
1828.....	237,324½		1866.....	231,690½	4,394,785
1829.....	225,977		1867.....	210,314	2,981,800
1830.....	308,463½	\$1,119,470	1868.....	180,056½	2,532,123
1831.....	383,548	1,529,930	1869.....	234,210½	3,248,311
1832.....	222,452	797,795	1870.....	318,521½	3,744,107
1833.....	222,932½	976,935	1871.....	250,416½	2,233,056
1834.....	252,879½	1,165,842	1872.....	181,956	1,948,414
1835.....	104,800½	1,030,560	1873.....	185,748½	2,189,036
1836.....	174,410½	1,268,388	1874.....	258,379½	2,637,944
1837.....	138,167½	803,653	1875.....	130,662½	1,310,144
1838.....	110,740½	925,202	1876.....	225,942½	1,635,390
1839.....	74,265½	719,204	1877.....	105,097½	1,117,310
1840.....	60,491½	473,345	1878.....	144,226½	1,034,144
1841.....	55,538	518,300	1879.....	155,297½	892,180
1842.....	75,543	498,979	1880.....	243,958½	1,474,110
1843.....	64,451	549,410	1881.....	256,173½	1,601,000
1844.....	86,881½	634,502	1882.....	255,582	2,741,440
1845.....	202,302½	1,883,669	1883.....	154,140	1,782,000
1846.....	179,511½	1,004,585	1884.....	304,938	

New England fl.

Massachusetts:
 Gloucester¹
 Provincetown²
 Beverly¹
 Plymouth
 Kingston
 Rockport¹
 South Dartmouth
 Fairhaven
 Marblehead
 Wellfleet³
 Boston⁴

Total.....

Maine:

Portland
 Booth Bay
 Bucksport
 Orland
 Lamoline
 Southport
 Bass Harbor⁵
 Bremen⁶
 Bristol
 Cranberry Isle
 Cape Porpoise
 Deer Isle
 Eastport⁷
 Ellsworth
 Friendship⁸
 Georgetown⁹
 Harpawell
 North Haven
 Pemaquid¹⁰
 Port Clyde¹¹
 Swan's Island¹²
 Southwest Harbor
 Solgwick
 Vinal Haven¹³
 New Harbor¹⁴
 East Booth Bay
 Lubec¹⁵

Total.....

1884.....
 1883.....
 1882.....
 1881.....

¹ Includes 23 vessels
 ² Includes 13 sail
 ³ Includes 1 sail t
 ⁴ Includes 1 sail t
 ⁵ First Grand Bar
 ⁶ Sold catch at Gl
 ⁷ Catch by small t

New England fleet catch of cod and other ground fish landed during 1884, as reported to the American Fish Bureau.

[Fresh-fish fleet and catch not included.]

Total.

Tons.

391,657
378,781
228,683
476,018
324,360
1,797,560

Total year's

of mackerel
noted.

Total
value.

\$2,250,938
1,658,569
1,560,139
1,777,517
2,249,511
1,492,923
1,207,973
1,313,535
2,139,084
2,098,521
2,168,738
1,729,544
1,255,073
2,351,067
1,116,253
1,597,416
2,878,771
5,935,828
4,729,846
4,374,798
2,861,928
2,222,152
3,948,318
3,744,197
2,223,036
1,948,416
2,199,038
2,657,616
1,310,146
1,650,306
1,187,316
1,694,146
382,066
1,474,116
1,601,007
2,741,406
1,782,066

Ports.	Vessels on Grand and Western Banks.	Vessels on North-eastern Shore and Georges Bank.	Total fleet.	Total crews.	Catch on Grand and Western Banks.	Catch on North-eastern Shore and Georges Bank.	Total number of quintals.
Massachusetts:							
Gloucester ¹	136	167	303	3,666	228,108	324,955	553,063
Provincetown ²	71	14	85	1,162	140,596	1,080	141,586
Beverly ³	6	6	14	145	7,500	950	8,450
Plymouth	3	2	5	25	2,700	.....	2,700
Kingston	3	.....	3	25	2,500	.....	2,500
Rockport ⁴	1	5	6	79	1,525	4,975	6,500
South Dartmouth	1	.....	1	10	1,250	.....	1,250
Fairhaven	1	1	2	21	1,100	1,050	2,150
Marblehead	1	.....	1	12	1,200	.....	1,200
Wellfleet ⁵	1	.....	1	20	3,000	.....	3,000
Boston ⁶	1	.....	1	15	.....	.....	.....
Total.....	224	195	419	5,180	389,863	333,010	722,393
Maine:							
Portland	20	60	80	700	24,000	90,000	114,000
Booth Bay	6	10	16	132	8,200	3,050	11,250
Bucksport	12	.....	12	147	16,000	.....	16,000
Orland	6	.....	6	76	7,700	.....	7,700
Lamoine	6	.....	6	90	12,000	.....	12,000
Southport	8	.....	8	113	7,800	700	8,500
Bass Harbor ⁷	.....	35	35	303	.....	11,078	11,078
Bremen ⁸	2	7	9	95	3,050	425	3,475
Bristol	2	3	5	45	1,600	480	2,080
Cranberry Isle	.....	5	5	50	.....	5,000	5,000
Cape Porpoise	1	13	14	84	.....	580	580
Ives Isle	.....	2	2	10	.....	400	400
Eastport ⁹	.....	80	83	500	3,000	10,500	13,500
Ellsworth	3	.....	3	42	3,800	.....	3,800
Friendship ⁷	.....	12	12	100	.....	4,000	4,000
Georgetown ⁷	.....	4	4	31	.....	1,540	1,540
Harpwell	.....	11	11	85	.....	8,500	8,500
North Haven	3	7	10	118	3,600	4,500	8,100
Pemaquid ⁷	.....	1	1	125	.....	5,500	5,500
Port Clyde ⁷	.....	4	4	30	.....	1,900	1,900
Swan's Island ⁷	.....	5	5	50	.....	1,200	1,200
Southwest Harbor	.....	8	8	60	.....	5,500	5,500
Sidgwick	2	.....	2	24	2,700	.....	2,700
Vinal Haven ⁷	.....	35	35	225	.....	10,500	10,500
New Harbor ⁷	.....	.....	.....	50	.....	2,000	2,000
East Booth Bay	.....	4	4	35	.....	700	700
Lube ⁷	.....	2	2	60	.....	4,200	4,200
Total.....	74	258	332	3,380	92,950	172,241	265,191

TOTAL CATCH OF NEW ENGLAND FLEET.

1884	298	453	751	8,560	482,333	505,251	987,584
1883	322	421	746	8,601	578,736	482,963	1,061,698
1882	315	377	692	7,719	474,078	424,826	898,904
1881	268	336	604	6,402	355,640	419,367	775,027

¹ Includes 23 vessels in the halibut catch; 5 that fished off Greenland, and 4 off Iceland.

² Includes 13 sail that caught 10,500 quintals in North Bay.

³ Includes 1 sail that fished off Greenland.

⁴ Includes 1 sail that caught 525 quintals in North Bay.

⁵ First Grand Banker from Wellfleet in 27 years.

⁶ Sold catch at Gloucester.

⁷ Catch by small boats included.

Statistics of the imports of fish and fish-oil for eleven years ending June 30, 1884.

The following table showing the leading fish importations has been prepared from the custom-house returns.

Attention may be called to the importation, duty free, of 134,482,950 pounds of fresh fish. Nearly all of this came from Canada under the treaty of Washington.

The exports have constantly increased in quantity and value, due, doubtless, in some degree, to the successful participation of the United States in the International Fishery Exhibition held in Europe.

	1874.	1875.	1876.	1877.	1878.	1879.
I.—FREE OF DUTY.						
Fish, not of American fisheries:						
Fresh, of all kinds.....pounds..	9,587,505	15,308,769	10,723,216	7,785,981	9,691,828	8,422,538
Herring, pickled.....barrels..	51,423	70,763	87,554	63,280	58,082	55,728
Mackerel, pickled.....do.....	80,503	77,479	76,531	45,060	102,148	101,428
Oils:						
Whale or fish, not of American fisheries.....gallons...	165,448	277,730	103,184	138,708	311,091	182,622
II.—DUTIABLE.						
Fish, not of American fisheries:						
Herring.....barrels..	31,128	21,581	17,208	14,873	15,542	18,900
Mackerel.....do.....	190	59	7	14	69	
Oils:						
Whale and fish, not of American fisheries.....gallons..	220,528	115,084	102,883	51,882	85,500	61,540
	1880.	1881.	1882.	1883.	1884.	Total.
I.—FREE OF DUTY.						
Fish, not of American fisheries:						
Fresh, of all kinds.....pounds..	10,761,807	12,975,761	15,883,849	15,860,390	17,521,419	184,482,950
Herring, pickled.....barrels..	46,723	64,811	76,136	101,444	126,519	802,400
Mackerel, pickled.....do.....	112,468	120,288	58,279	52,062	88,215	921,400
Oils:						
Whale or fish, not of American fisheries.....gallons..	407,416	568,660	337,076	326,473	429,561	8,247,900
II.—DUTIABLE.						
Fish, not of American fisheries:						
Herring.....barrels..	26,168	30,987	36,061	46,995	31,068	262,400
Mackerel.....do.....		9	164	11		
Oils:						
Whale and fish, not of American fisheries.....gallons..	92,819	146,410	209,051	157,262	383,319	1,632,400

SIXTH ANNUAL REPORT OF THE BOSTON FISH BUREAU, JANUARY 1, 1881.

[By W. A. Wilcox, secretary.]

REPORT.

After a series of years disastrous to life and property with poor and inferior catches that sold at ruinous prices, we are pleased to place on record that the season just closed has been remarkable for its unusually fine weather for prosecuting the industry, for the small amount of loss of life and property, for the unprecedented abundance of the leading fish in the waters of Massachusetts Bay, as well as of codfish in the Grand Banks. All these advantages have continued throughout the fishing season and been accompanied with a good steady demand for the products as soon placed on the market, enabling the producer to at once realize at fair prices, and at the same time no large stocks have accumulated.

Of the loss of life and property, 4 vessels with 28 men have sailed never to return these with other losses from dories and small boats aggregate 58 men from the entire New England fleet, against 33 vessels and 266 men the previous year. The average loss of life from the Gloucester fleet alone for the past twenty years up to the present has been 92 men.

As we have frequently reported, it will be seen from the foregoing figures that the catch of fish on shore, and such as were taken in former years; the reports of years and manner of the losses in tonnage are caught at the aggregate showing a falling aggregate showing having been well-northern waters. Mackerel.—The catch reported by the fleet will be especially disastrous with profit. We branch of the catching the demand in May 10. The market fairly up to July Banks. Early in Massachusetts Bay, at once known them in December, during remarkable "stock" was noticeable for however, causing North Bay and numerous vessels rather or vessels visited enough of the home inspected barrels by 55,986 barrels. The total catch by the previous year of 96 barrels. In addition from the Provinces Total amount of exports, with home catch. Herring.—Most of shows a decrease, though accounted for by the catch off the New with the reduced supply. Codfish.—The Grand Banks sail, with few exceptions in North Bay. The shore fleet, numerous, and with the increased demand, leading to the late method followed an increased producer. Bank fish from \$4.75 to \$5.50 a hake, haddock, and the previous year, and salmon.—Our recent waters. The

As we have frequent inquiries as to the fleet of vessels in the cod fishery, amount of catch, &c., we have prepared a table of reports from the numerous New England ports. It will be found of interest as showing the number of the larger vessels engaged in the catch, and while showing only two-thirds of the total catch, at least one-third being caught by small boats fishing on the near home banks and fishing grounds, it will give some idea of the amount and value of this industry. We think these figures prove that for the capital employed this industry ranks among the most important in the country, giving employment to a large number of persons afloat and on shore, and supplying for the masses a cheap and healthful food. As we have never seen any previous records of the codfish fleet, we have no table of comparisons with former years; the number of vessels from most of the ports is small compared with reports of years ago, while others have largely increased. The increased facilities and manner of the catch with a large increase in small boats has amply made up for losses in tonnage. It is generally admitted by dealers and fishermen that more fish are caught at the present time than in any past years. The receipts in Boston, while showing a falling off in some varieties (principally those from the Provinces), in the aggregate show the usual average-amount has been received, the Boston market having been well supplied at all times with every variety of salt-water fish found in northern waters.

Mackerel.—The season opened by the early or southern fleet sailing in March, first catch reported by schooner Edward E. Webster, 25,000 fish April 2. The record of the fleet will be found in the report of the various fleets and shows another financially disastrous early catch, some of the vessels returning without fish, very few with profit. We have in previous reports mentioned the injurious effects of this branch of the catch even when followed at a profit, a large catch of poor fish injuring the demand later in the season. The past few years fully demonstrate that the sooner this early catch is abandoned the better it will be for all interested. The first catch in the weirs at Cape Cod April 26; first new salt mackerel arrived in Boston May 10. The market for new stock ranged from \$5 to \$6 a barrel, vessels doing only fairly up to July 1, the fish and fleet being scattered from Cape Cod to Jeffrey's Banks. Early in July an unprecedented large body of mackerel appeared in Massachusetts Bay, at our very doors. The oldest dealers and fishermen report never having known them so plenty. They continued in the Bay until the close of the season in December, during which time the entire fleet did well, while many of them made remarkable "stocks," as will be seen in the reports of individual vessels. The catch was noticeable for the absence of large and very small fish; its excellent quality, however, causing an active demand for immediate consumption. The catch in the North Bay and provincial waters by the American fleet was almost an entire failure, numerous vessels returning without a single barrel. Fortunately but a small number of vessels visited those waters and, not finding fish, returned in time to secure enough of the home catch to save them from a disastrous season. The total catch of inspected barrels by the Massachusetts fleet is the largest since 1874, amounting to 355,986 barrels. This season's catch has been exceeded but ten times since 1804. The total catch by the New England fleet is 349,674 inspected barrels, a gain over the previous year of 99,861 barrels on the Massachusetts catch and total gain of 129,075 barrels. In addition to our own large catch there has been imported at this port from the Provinces 105,730 barrels, against 84,213 the previous year.

Total amount of mackerel received in Boston during 1880 from domestic and foreign ports, with home catch, 196,493 inspected barrels.

Herring.—Most of our supply is from the provinces, and yearly since 1876 the catch shows a decrease, the imports of 1880 being less than half that of five years ago. This is accounted for by the failure of the leading herring fisheries in provincial waters. The catch off the New England shore was also much less than that of 1879. Even with the reduced supply, prices have ruled low, caused by the abundance of mackerel.

Codfish.—The Grand and Western Bank fleets from New England ports, numbering 222 sail, with few exceptions, made but one trip to the Grand Banks; only ten sail fished in North Bay. All returned in safety with full fares. The Georges and North-east shore fleet, numbering 517 sail of the larger class, have had a fairly prosperous season, and with the numerous small vessels and boats have amply supplied the increased demand, leaving less than the usual supply on hand at the close of the season. With the late method of packing in neat, clean, attractive packages, has naturally followed an increased demand for home use; this has been of great advantage to the producer. Bank fish ruled most of the season at \$3.50 to \$3.75, Georges and Shores from \$4.75 to \$5.50 a quintal.

Bake, haddock, and other ground fish vary but little in the amount received from the previous year, and have met with a good demand, at prices somewhat higher than last season.

Salmon.—Our receipts show a large decrease, caused by a very small catch in provincial waters. The catch in American waters on the Pacific has been good and

prices there low. The high rates of railroad transportation has prevented but slight receipts from that quarter.

Box herring.—About the usual amount of near 500,000 boxes has been received and distributed. This large amount has not at all times fully supplied the demand. The manufacture of the small herring, usually used for smoking, has drawn largely from the supply that would otherwise be boxed. Over 1,000 hands are now employed at Eastport, Me., in putting up sardines; there are also numerous factories at other points.

Other varieties of fish, it will be seen by the table of monthly receipts, about the usual amount has been received. They present no special feature of interest.

United States Fish Commission.—This branch of the Government, but a little older than the bureau, is steadily and quietly working for the benefit of the fishing industry in its various branches.

We wish here to return the thanks of the Boston dealers for the care and interest shown in their products at the late Berlin Exhibition. It is a source of gratification to all citizens, and more particularly to those engaged in the fish industry, that this country, from taking but little interest in the industry as compared with other nations a few years ago, has been acknowledged before the world as at the head, and worthy to receive the highest award of the exhibit, for which we are indebted, in a large measure, to the commission. Already good results are shown from the exhibit made by Boston dealers. Of the field work of the commission many good results have been accomplished; during the past season the artificial propagation of the various salt water fish has been successfully carried on, among which for the first time that of the valuable Spanish mackerel is of much importance, its spawning place even heretofore unknown. When we recall the endless amount of trouble and expense as well as millions of money paid in the past by treaties and awards to other countries for the privilege of fishing in provincial waters, the value of the thorough knowledge of fish propagation will be appreciated, as shown in, the following extract from the last report of Prof. Spencer F. Baird, United States Fish Commissioner. "We have at our command the means of so improving and increasing the American fisheries as to obviate the necessity in the future of asking a participation in the inshore fisheries of the British provinces, and thus enable us to dispense with fishing treaties or fishery relations of any kind with the British or other Governments." The last improvement that has come under our notice is one that, if it continues to do all that it gives promise of doing, will be of great value to the fisherman and revolutionize the present manner of catching ground fish. We allude to the use of gill-nets in cod-fishing. As is well known the Norwegians take more than half the number and two-thirds of the total weight of their catch of cod by gill-nets, yet it has been unknown to our fisherman until the present month. The Commissioner having provided the Norway net for them to experiment with, Capt. George H. Martin, of Gloucester, has been using them to good advantage in Ipswich Bay, fishing with two dories, two nets to a dory, nets each 50 fathoms long, 3 fathoms deep, suspended by glass balls or floats at any required depth. Nets of 10-inch mesh are set the same as herring-nets, being set in the morning or during the day, and are hauled the next morning. As yet no fish caught except at night, and only the largest cod; the catch for the three first trials, with unfavorable weather was, respectively, 4,000, 6,000, and 7,000 pounds. Captain Martin is much pleased with his success, and has ordered new nets. These nets can be used on the Grand Banks or in 50 fathoms of water, as well as in Ipswich Bay, where at present used only in 8 to 15 fathoms. We may not be surprised in the near future to see the old and much-condemned as well as expensive method of trawling superseded by the gill-nets introduced by the United States Fish Commission.

Foreign exports.—From the early history of the fishing industry this branch has been of importance; of late years it has steadily shown a decline, the leading cause of which is found in the constantly increasing domestic demand. This year prices have ruled low at the West India ports, with small inducements to shippers to increase the business, which is yet of some considerable importance, amounting the past year to \$600,000.

Fresh fish.—Our report and tables of receipts, number of vessels and crew, having been confined to salt or cured fish, we wish briefly to call attention to the importance and steady growth of the fresh-fish business. During the past year the market has at all times been well supplied with the leading varieties of fresh salt-water fish; cod and pollock show a small falling off in the receipts, haddock a gain, hake a large increase; the total amount of the receipts of these fish for the past year is not far from 30,000,000 pounds. The abundance of mackerel at our doors most of the season resulted in the receiving and distribution throughout the country of 75,000 barrels of fresh mackerel. Day after day for weeks from 1,000 to 2,000 barrels was received. Notwithstanding this unusually large production, all were used fresh. For the first year in the history of the business not a week during the year has passed but fresh mackerel could be bought at reasonable prices. Salmon were in lighter receipt, yet the market was well supplied. Other varieties of fish have been of an average catch

The aggregate amount of the increase over the Boston Fish Bureau and past work industry were through no concentration of operations of the procured. In June spirit for which business for the regular was organized. Since its founder. For known at the front as well as the man with. He has been received his kind love him.

Each year since interest, for which of the coast. At first since found out its to the fisherman to fleets, fish, or other reports we extract derived much important and valuable interest of information not each department."

To all who have with statistics at the that the record of the just closed.

Large catches and "a

Schooner Alice, Capt. H. ...
Schooner Edward E. Webb ...
Schooner Alice C. Fox, C. ...
Schooner Louie and Rosa ...
Schooner Mary Greenwood ...
Schooner Katie Florence ...
Schooner Adelle F. Cole ...
Schooner Cora Lee ...
Schooner Frank Butler ...
Schooner Cora Smith ...
Schooner M. O. Curtis ...
Schooner Mary Snow ...
Schooner F. F. Nickerson ...
Schooner Dictator ...
Schooner Morning Star ...
Schooner Longwood ...
Schooner A. H. Whitmore ...
Schooner Daniel Marcy ...
Schooner R. J. Evans ...
Schooner Abbie Frankford ...
Schooner Mantonah ...
Schooner P. and E. Small ...
Schooner Jennie Armstrong ...
Schooner Lizzie Thompson ...
Schooner N. F. Campbell ...
Schooner Cora Louise ...

The aggregate amount of this branch of the business, not far from \$2,000,000, shows an increase over the previous year.

Boston Fish Bureau.—In closing the sixth annual report we wish to refer to its institution and past work. Previous to its organization the only record of the fishing industry were through the yearly reports of the State inspector-general of fish, with no concentration of daily or weekly reports of receipts or information in regard to the operations of the fleets during the fishing season, except such as individual firms procured. In June, 1875, the late Mr. Franklin Snow, with the sagacity and public spirit for which he was noted, called the dealers together, offering them suitable rooms for the required needs of an association free of rent for a year, and the bureau was organized. Since our last annual report we have been called to mourn the loss of its founder. For twenty-eight years he was one of the leaders in the trade, ever known at the front in good works and numerous institutions for the benefit of others, as well as the many business enterprises of which he was the founder or connected with. He has been and long will be missed as well by the humble fisherman that received his kind look and word as those having large business transactions with him.

Each year since its organization the bureau reports have been fuller and of more interest, for which we are largely indebted to our correspondents the entire length of the coast. At first looking with suspicion on its aim and object, they have long since found out its object is for the benefit of the fishing industry, its doors ever open to the fisherman to give him the latest information procured as to the location of the fleets, fish, or other desired information. From many letters in regard to our daily reports we extract the following from a producer and dealer in Maine: "We have derived much important information from your full and able reports of the growing and valuable interest, the production of fish, giving to the producer and dealer a line of information not elsewhere found, which aids the fisherman, packer, and dealer in each department."

To all who have helped to make our reports of interest, and kindly furnished us with statistics at the close of the year, we return our sincere thanks, with the hope that the record of the coming season business may be more favorable than the one just closed.

W. A. WILCOX,
Secretary.

Large catches and "stocks" by the mackerel fleet in New England waters, season of 1880.

Name.	Quantity.	Value.
Schooner Alice, Capt. H. B. Joyce, Swan's Island, Me.....	barrels.....	3,700 \$19,548 76
Schooner Edward E. Webster, Capt. S. Jacobs, Gloucester.....	do.....	3,900 16,485 00
Schooner Alice C. Fox, Captain Rowe, Portland.....	do.....	2,700 13,432 00
Schooner Louis and Rosa.....	inspected barrels.....	2,700 13,432 00
Schooner Mary Greenwood.....	do.....	1,700 11,035 00
Schooner Kate Florence.....	do.....	2,500 11,000 00
Schooner Addie F. Cole.....	do.....	1,900 10,500 00
Schooner Cora Lee.....	do.....	1,875 10,250 00
Schooner Frank Butler.....	do.....	2,036 11,600 00
Schooner Cora Smith.....	do.....	2,150 10,000 00
Schooner M. O. Curtis.....	do.....	2,000 10,000 00
Schooner Mary Snow.....	do.....	1,352 9,281 00
Schooner F. F. Nickerson.....	do.....	2,350 9,730 00
Schooner Diotator.....	do.....	1,652 9,213 00
Schooner Morning Star.....	do.....	1,627 9,687 00
Schooner Longwood.....	do.....	1,700 9,000 00
Schooner A. H. Whitmore.....	do.....	1,750 9,000 00
Schooner Daniel Marcy.....	do.....	1,900 9,000 00
Schooner R. J. Evans.....	do.....	1,645 8,500 00
Schooner Abbie Frankford.....	do.....	1,700 8,800 00
Schooner Miantonomah.....	do.....	1,400 8,000 00
Schooner P. and E. Small.....	do.....	1,433 7,008 00
Schooner Jennie Armstrong.....	do.....	1,575 7,800 00
Schooner Lizzie Thompson.....	do.....	1,500 7,500 00
Schooner N. F. Campbell.....	do.....	1,306 6,715 00
Schooner Cora Louise.....	do.....	1,700 6,500 00

B. S. SNOW, *President.*
HENRY S. POTTER, *Treasurer.*
W. A. WILCOX, *Secretary.*
T. A. RICH,
L. PICKERT,
N. P. BEAMAN,

Executive Committee.

Fish received by Boston dealers, 1876 to 1881.

Fish.	1876.			1877.			1878.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel..... barrels..	82,935	43,612	126,547	35,529	86,850	122,379	31,881	78,000	109,881
Mackerel, Boston fleet.....	36,384	.....	36,384	20,459	.....	20,459	32,458	.....	32,458
Herring..... barrels..	17,009	76,251	93,260	19,851	58,097	77,948	22,810	42,300	65,110
Alewives..... do.....	910	9,269	10,179	2,620	1,252	3,872	4,014	3,117	7,131
Salmon..... do.....	.....	2,720	2,720	.....	5,686	5,686	.....	3,906	3,906
Trout..... do.....	.....	159	159	.....	834	834	.....	203	203
Herring, smoked..... boxes..	296,906	65,180	362,086	282,062	180,931	462,993	214,715	171,508	386,223
Bloaters, smoked..... do.....	10,824	.....	10,824	18,495	.....	18,495	17,629	.....	17,629
Cod..... quintals..	111,690	7,818	119,508	126,140	20,509	146,649	174,624	9,034	183,658
Hake..... do.....	16,504	1,118	17,622	30,149	14,723	44,872	45,700	10,973	56,673
Haddock..... do.....	3,021	1,240	4,261	4,910	6,309	11,219	9,683	1,685	11,368
Pollock..... do.....	1,288	2,207	3,495	4,241	3,363	7,604	2,601	2,247	4,848
Cusk..... do.....	2,471	.....	2,471	2,291	830	3,121	2,917	.....	2,917
Shad..... barrels..	11	541	552	.....	893	893	.....	1,102	1,102
Boneless fish..... boxes..	7,029	.....	7,029	7,138	.....	7,138	3,615	.....	3,615

Fish.	1879.			1880.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel..... barrels..	83,818	84,219	168,037	36,761	105,730	142,491
Mackerel, Boston fleet.....	49,413	.....	49,413	54,002	.....	54,002
Herring..... barrels..	20,146	80,698	100,844	26,492	29,310	55,802
Alewives..... do.....	795	5,727	6,522	1,351	5,682	7,033
Salmon..... do.....	145	5,838	5,983	660	2,332	2,992
Trout..... do.....	.....	1,437	1,437	.....	608	608
Herring, smoked..... boxes..	291,473	108,876	400,349	262,482	181,115	443,597
Bloaters, smoked..... do.....	23,077	.....	23,077	20,603	.....	20,603
Cod..... quintals..	123,912	21,989	145,901	124,338	39,151	163,489
Hake..... do.....	27,069	6,610	33,679	32,222	8,810	41,032
Haddock..... do.....	9,155	922	10,077	9,173	976	10,149
Pollock..... do.....	1,589	8,497	10,086	1,962	2,762	4,724
Cusk..... do.....	2,059	212	2,271	1,362	187	1,549
Shad..... barrels..	.....	3,042	3,042	.....	1,975	1,975
Boneless fish..... boxes..	5,915	.....	5,915	9,616	54	9,670

Massachusetts
Glow
Providence
Dennis
South
Hingham
Rock
Fairhaven
South
New
Beverly
Plymouth
King
Harwich

Total

New Hampshire
Portland

Maine

Portland
South
South
Sedgwick
Deer Isle
Bucksport
Calais
North
Georgetown
Lamoine
Orland
Hancock
Swan's Island
Vinal Harbor
Harpwell
Eastport
Bremen

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Harpwell
Eastport
Bremen

New England fleet catch of codfish, as reported to the Boston Fish Bureau (1880).

1878.			Porta.										Vessels in North Bay.	Grand and Western Banks.	New England shore and George's Banks.	Total fleet.	Total crew.	Catch in North Bay.	Catch on Grand and Western Banks.	Catch on New England shore and George's Banks.	Total.	
receipts.	Foreign receipts.	Total.																				
8,881	78,080	143,028	Massachusetts:															Quintals.	Quintals.	Quintals.	1984,900	
458	42,300	65,110	Glaucoster										105	175	280	3,040			116,375	248,825		
810	1,117	1,131	Provincetown.										10	43	4	57	704	10,200	65,200	1,975	77,375	
014	9,806	2,809	Dennisport.																	950	950	
	203	203	South Chatham.										1	5	6	67		1,000	1,000	1,300	2,500	
715	171,508	223,223	Braintree.																	450	450	
7,620		17,620	Rockport.										2	6	8	85		1,825	2,050	8,575	8,575	
4,024	9,034	183,634	Fairhaven.										1	1	2	21		900	1,900	2,800	2,800	
15,700	10,973	55,673	South Dartmouth.										1		1	10		1,250		1,250	1,250	
9,683	1,063	11,303	Newburyport.																		500	500
2,001	2,247	4,948	Beverly.										7	3	10	17					5,000	5,000
2,017		2,017	Plymouth.										5		5	55		5,000			1,300	1,300
	1,192	1,192	Kingston.										1		1	14		1,300			400	400
8,015		8,015	Harwich.												1	1						
Total.			10	100	100	876	4,185	10,200	201,000	258,250	471,050											
1880.			New Hampshire:																			
			Portsmouth.										4	10	14	126			5,800	5,000	10,800	
			Maine:																			
			Portland.										23	20	43	900		28,500	8,000	34,000		
			Booth Bay.										11		11	154		9,000		20,000		
			Southport.										11		11	157		15,400		15,400		
			Sedgwick.										1		1	12		1,000		1,000		
			Deer Isle.											2	2	10			600	600		
			Bucksport.										6		6	75		6,000		6,000		
			Calais.										1	3	4	41		1,250	4,350	5,600		
			North Haven.										6	12	18	130		5,000	5,000	10,000		
			Seabrooktown.											10	10	50				1,938		
			Lamoine.										4		4	48		6,100		6,100		
			Orland.										6		6	67		6,300		6,300		
			Mancock.										4		4	49		5,100		5,100		
			Swan's Island.											4	4	20		1,000	1,000	1,000		
			Vinal Haven.											25	25	175		9,150	9,150	9,150		
			Harpwell.											14	14	115		10,548	10,548	10,548		
			Eastport.										6	12	18	198		5,100	21,000	26,100		
			Bremen.										4		4	66		5,780	1,400	7,180		
			Total.										83	106	189	1,757		93,500	71,980	165,570		
			Total New England fleet.										10	253	315	579	6,068	10,200	300,980	335,236	647,426	

¹ 8,275,000 pounds halibut; several fares sold at other ports.

³ Only fishing vessel from the United States on Labrador coast.

^a Six fares not included; landed at other ports.

⁴ Shore catch includes all ground fish.

* 20,000 quintals hake, 6,100 quintals cod.

New England catch of mackerel; amount of inspected barrels packed at home ports, as reported to the Boston Fish Bureau (1880).

Ports.	North Bay fleet.	New England shore fleet.	Southern fleet.	Total number of sail.	Total number of crews.	North Bay catch.	New England shore catch.	Southern catch.	Total New England fleet catch.
Massachusetts:						<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>
Boston ¹	5	31	...	36	530	2,158	51,854	...	54,012
Cohasset	1	...	...	...	100	300	5,850	...	6,840
Chatham	...	1	5	6	87	...	6,230	1,000	7,230
Dennis	...	7	3	10	160	...	7,601	400	8,151
Gloucester ²	15	61	34	110	1,650	2,180	124,477	2,954	129,631
Harwich	...	5	6	11	180	...	12,838	1,000	13,838
Hyannis	...	2	...	2	30	...	500	...	500
Newburyport ³	4	5	9	12	110	...	738	...	738
Rockport ⁴	1	5	1	7	96	50	700	...	750
Provincetown	...	4	...	7	105	...	4,963	205	5,068
Wellfleet	6	5	20	31	450	50	28,707	500	29,257
Total	32	126	81	230	3,498	4,817	244,450	6,719	255,966
Maine:									
Portland ⁵	...	50	...	50	750	2,484	73,933	...	76,417
North Haven ⁶	...	1	5	6	90	...	...	1,400	1,400
Camden	...	3	...	3	39	...	1,421	...	1,421
Deer Isle ⁷	...	2	2	4	56	...	...	...	...
Booth Bay ⁸	...	12	4	16	235	...	3,300	700	4,000
Swan's Island ⁹	2	2	6	10	145	...	...	...	...
Sedgwick ⁹	...	...	1	1	15	...	...	...	...
Southport ⁹	...	5	...	5	70	...	3,100	...	3,100
Total	2	75	18	95	1,380	2,484	81,754	2,100	86,338
New Hampshire:									
Portsmouth	...	4	4	8	110	...	6,750	000	7,250
Total New England fleet	34	205	103	342	4,908	7,301	332,954	9,419	348,673

¹ Several vessels packed in addition to home fleet.

² Includes other than home fleet.

³ 6,855 barrels packed at other ports.

⁴ 6,209 barrels packed at other ports.

⁵ Many vessels in addition to home fleet included.

⁶ Vessels partly packed away from home.

⁷ Vessels all packed away from home.

⁸ Many of them packed away from home.

⁹ 1,240 barrels packed away from home.

The Shore fleet mentioned above are only the vessels that fished nowhere else; to which may be added the Southern and North Bay fleets, after they returned from their unsuccessful cruise in the waters, making the total shore fleet 342 sail.

Receipts

Fish.

Mackerel barrels
Mackerel, Boston fleet
inspected barrels.
Herring barrels
Alewives do
Salmon do
Trout do
Herrings (smoked) do
Bloaters (smoked) do
Cod quintals
Hake do
Halibut do
Pollock do
Tusk do
Boneless fish boxes
Shad barrels

Fish.

Mackerel barrels
Mackerel, Boston fleet
inspected barrels.
Herring barrels
Alewives do
Salmon do
Trout do
Herring, smoked, boxes
Bloaters, smoked do
Cod quintals
Hake do
Halibut do
Pollock do
Tusk do
Boneless fish boxes
Shad barrels

Mackerel
Mackerel, Boston fleet,
Herring
Alewives
Salmon
Trout
Herring, smoked
Bloaters, smoked
Cod
Hake
Halibut
Pollock
Tusk
Boneless fish
Shad

Receipts of fish by Boston dealers from foreign and domestic ports, 1880.

Fish.	January.		February.		March.		April.		May.		June.	
	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.
Mackerel barrels..	117	3,370	709	3,947	331	2,012	184	138	(New) 945	178	1,079	6,263
Mackerel, Boston fleet, inspected barrels.												
Herring barrels	3,815	1,031	891	1,007	3,300	630	1,844		448		433	118
Shewen do	774		107	445			65	156	550	485	208	440
Salmon do	70	5	70		70		70					
Trout do		70										
Herrings (smoked) boxes	4,013	12,500	1,000	17,430	12,126	8,000	20,278	25,580	4,403	7,500	18,084	26,332
Boaters (smoked) do	5,485	3,400			3,238							
Cod quintals..	10,482	6,621	8,578	375	8,923	50	4,411	314	3,078	381	9,649	3,004
Hake do	932		1,271		2,550		1,059	648			2,601	
Haddock do	781		091		474		637	228	50		716	150
Pollock do	50	131					50				605	156
Cook do							30				130	
Boatless fish boxes..	712		743		608		615		357		283	
Shad barrels..												

Fish.	July.		August.		September.		October.		November.		December.	
	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.
Mackerel barrels..	4,166	8,222	10,158	14,891	9,412	19,713	4,934	30,033	2,426	11,532	1,701	5,205
Mackerel, Boston fleet, inspected barrels.												
Herring barrels	937	2,144	78	3,493	209	6,587	7,370	10,257	617	2,088	7,587	1,875
Shewen do	81	774		964	10	48		619	350	923		148
Salmon do	70			501	70	123		1,041	70	413	70	249
Trout do										590		48
Herring, smoked, boxes	23,330	25,500	14,400	27,245	20,636	6,465	62,227	6,437	42,471	18,126	30,592	
Boaters, smoked do							284		3,319		4,711	
Cod quintals..	9,859	4,726	10,212	7,384	7,523	6,451	20,074	6,984	9,914	3,247	10,061	914
Hake do	1,026		4,541	1,143	4,717	1,501	9,576	1,854	2,029	2,214	1,880	2,450
Haddock do	651	20	615		585	834	2,486	154	1,012	90	529	
Pollock do	23	474	95	810	275	272	195	316	200	693	30	
Cook do	190		80	25	107	150	575	12	340			
Boatless fish boxes..	330		276		504	54	2,002		640		2,490	
Shad barrels..		244		740		891						

RECAPITULATION.

Fish.	Total home.	Total foreign.	Grand total.
Mackerel barrels..	30,761	105,730	196,493
Mackerel, Boston fleet, inspected do	54,002		54,002
Herring do	20,492	29,310	55,802
Shewen do	1,351	5,652	7,003
Salmon do	500	2,332	2,832
Trout do		698	698
Herring, smoked boxes..	202,482	181,115	443,597
Boaters, smoked do	20,603		20,603
Cod quintals..	124,338	39,451	163,789
Hake do	32,222	9,810	42,032
Haddock do	9,172	976	10,148
Pollock do	1,523	2,762	4,285
Cook do	1,362	187	1,549
Boatless fish boxes..	9,646	54	9,700
Shad barrels..		1,975	1,975

Massachusetts catch of mackerel for seventy-seven years, 1804-1880.

SEVENTH ANNUAL

Year.	Total.	Year.	Total.	Year.	Total.
1804	8,079	1811	17,390	1818	47,210
1805	8,936	1812	9,760	1819	165,433
1806	8,473	1813	3,832	1820	129,602
1807	10,904	1814	1,349	1821	111,600
1808	7,738	1815	16,394	1822	150,290
1809	8,865	1816	30,021	1823	145,000
1810	13,058	1817	37,482	1824	180,600

Year.	Quality.				Total.
	No. 1.	No. 2.	No. 3.	No. 4.	
1825	29,037	109,840	114,904		254,381
1826	43,499	80,584	35,657		159,740
1827	81,357	59,841	39,912		181,110
1828	63,235	119,000	63,432		245,667
1829	54,184	106,471	85,222		245,877
1830	47,692	104,560	150,024		302,276
1831	70,198	171,290	142,184		383,672
1832	28,678	97,220	90,554		224,452
1833	54,550	98,925	60,442		222,917
1834	80,434	93,553	78,897		252,884
1835	48,217	57,271	91,923		197,411
1836	50,311	60,558	60,187		171,056
1837	81,306	61,027	52,558		194,891
1838	37,968	28,588	44,184		110,740
1839	22,191	22,037	30,015		74,243
1840	19,350	11,049	20,091		50,490
1841	23,747	10,341	21,149		55,237
1842	29,368	22,499	23,684		75,551
1843	32,759	13,088	18,604		64,451
1844	28,843	22,515	34,823		86,181
1845	128,086	85,696	88,520		302,302
1846	149,338	73,403	65,520		288,261
1847	104,150	70,007	71,760		251,917
1848	20,459	88,466	108,176		317,101
1849	60,300	94,847	67,709		222,856
1850	88,401	44,909	87,604	21,658	242,572
1851	96,763	102,407	135,597	614	335,371
1852	92,617	73,799	47,965	3,164	317,545
1853	49,010	21,583	50,987	19,843	140,423
1854	30,095	40,242	55,133	3,378	139,848
1855	29,487	91,025	8,000	1,338	139,850
1856	89,032	76,810	47,988	178	214,008
1857	97,917	49,775	40,962	724	189,383
1858	75,347	21,929	32,333	1,992	131,601
1859	51,330	12,160	22,207	4,148	89,845
1860	58,828	122,837	50,578	3,400	244,703
1861	70,877	100,286	22,485	638	194,286
1862	81,902	78,888	100,011	592	260,883
1863	67,985	136,075	102,601	290	306,951
1864	103,863	137,746	32,212	14	273,835
1865	153,723	63,562	35,266	224	252,775
1866	150,322	36,318	44,481	289	231,410
1867	122,368	55,088	41,948	418	219,762
1868	93,092	42,262	44,077	62	179,493
1869	71,914	92,010	65,717	8,549	234,190
1870	66,046	189,422	63,019	32	318,519
1871	105,187	85,867	68,322	38	259,414
1872	71,867	54,317	55,603	115	181,802
1873	83,687	63,888	37,793	306	185,774
1874	112,071	71,422	73,966		257,459
1875	33,100	19,275	73,375	4,261	130,011
1876	30,859	96,778	93,481	4,818	225,936
1877	18,015	37,208	37,700	12,094	103,017
1878	14,084	48,170	70,176	11,765	144,195
1879	9,025	94,114	54,806	352	158,397
1880					158,397

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SEVENTH ANNUAL REPORT OF THE BOSTON FISH BUREAU, JANUARY, 1892.

NEW ENGLAND FISHERIES.

Of the numerous industries of New England that of the fisheries is no doubt the oldest, and possesses much of historic and present interest to others than those particularly engaged in it. At numerous times much has been written of it yet its history, particularly the statistical portion is much broken, many of the old records having been destroyed, with no copies in existence. As early as 1619 we find the abundance of fish in the waters of Massachusetts Bay had attracted attention in Europe. The Pilgrims going from Leyden to England in that year to solicit consent of King James to their going to America, the king inquired, "What profit might arise?" the brief reply was simply "Fishing." To which King James responded, "So God have my soul, 'tis an honest trade; 'twas the Apostles' own calling." The request was granted. To the fisheries the credit is given of saving the infant colony from starvation; that the first free schools were supported with an income from the fisheries; that the Government has always recognized the patriotism, bravery, and important services rendered the Navy in time of need by the fishermen, are all matters well known. With the growth of the country nearly all the seaport towns had quite large fleets engaged in fishing, with numerous vessels engaged in foreign trade, of which fish products formed a large proportion. For many generations the business was carried on in its primitive way with no marked change until quite recently.

Of late years many new industries have sprung up that in size far surpass that of the fisheries. A large number of ports have given up the business, others have but few vessels. The business is gradually being concentrated to a few ports, the export business (with the exception of an occasional cargo) confined to Boston.

Although fewer ports and smaller fleets are engaged at present the business continues of importance, with probably as many fish caught at present as at any previous time.

The many new ways of preparing the catch for the market give employment ashore to a large number of persons, the increased facilities for a catch making good any decrease in the number of vessels, with fully as many persons employed afloat and ashore as at any previous time with twice as many sail.

Before turning to the present it may be of interest to note a few of the changes and contrast the past with the present.

In the past, as at the present time, Boston was known as the chief port of distribution for all varieties of salt-water fish found in New England or Provincial waters. Here, in olden time, the fishermen came with their products, selling the same to the grocers or from the vessels and taken inland by teams that came from Vermont, New Hampshire, and other parts of the country loaded with grain, pork, and other provisions. Dry fish was handled loose or tied up in bundles, while mackerel and other pickled fish were shipped in barrels, halves, or quarters. For many years the catch was made in the most primitive manner, for cod and other ground fish the hook and hand-line only being used, the mackerel catch was taken by the gaff or by "drailing," the latter mode by having poles suspended from the side of the vessel, with hook and line attached, the vessel being under sail or no catch was made; later the hook and hand-line, or "jigging." With these few appliances a large amount of business was annually carried on, the catch, with the exception of the Grand Bank cod fleet, being confined chiefly to the New England coast.

Although Boston was the great point for a market and the distribution of the catch, there was not a single exclusive wholesale salt-fish store in the city until 1807. In that year Mr. Ebenezer Nickerson opened the first store of the kind, it being located on Long Wharf. For fifteen years this was the only store engaged in the business; in 1830 two other firms were started. From this commencement the business grew, the grocers giving it up to those exclusively engaged. New firms started from time to time, as the business increased.

From the first settlement of Boston up to 1835 the fresh-fish business was only carried on in a retail manner by boats lying at the docks, and teams standing about the market; ice was not used, and the canning of fish had probably not been thought of. During the summer season the trade was confined to a near-home demand. During the winter it was teamed inward as far as Albany and Montreal. The catch came from Massachusetts Bay, and was supplied by the small fishing vessels from this and neighboring ports. During cold weather, in a frozen state, it was brought to market by teams from Cape Ann and ports between. The oyster business was of small proportion, and carried on from two small hulks covered in and used for storage below and above. The oysters mostly came from Cape Cod, never from south of New York, and from July to September no oysters were sold in Boston. As the demand for fresh fish increased better facilities were needed to handle the catch, and the first wholesale fresh-fish store was opened on Long Wharf in 1835, Messrs. Holbrook, Smith & Co. being the pioneers. Their business was mostly during the winter and spring

months; through the warm weather it was confined to pickled, dry, or smoked fish. In 1838 this firm removed to Commercial Wharf, being the first firm so engaged on that wharf, which, at the present time, is the headquarters of the trade, with thirty-five wholesale firms engaged in the immediate vicinity.

Up to 1845 the catch of ground fish was solely by hook and hand line. About that year the trawl was first introduced by fishermen that had used or seen them used off the coast of Ireland. During 1880 the gill nets were introduced with good result by the United States Fish Commission. At the present time all three of the methods are used by the market fishermen. In the mackerel catch the purse seine superseded all previous methods, and is now almost exclusively used. Its use is said to date from 1855, although it did not come into general use for a number of years.

As we have previously alluded to the decrease in the number of vessels engaged in the catch, as not necessarily causing a like decrease in the amount of the industry or of the products, it is of interest to note, with only one exception, the largest catch of mackerel on record, as inspected in Massachusetts, was in 1851. In that year with the hook and line 329,000 barrels were caught by a fleet of 453 vessels, hailing from thirty Massachusetts ports, with 87 vessels from other States—a total of 940 vessels manned by 9,993 fishermen. During the past year, with the purse seine, a catch of 391,657 barrels was made with a fleet numbering 293 sail from Massachusetts, New Hampshire, and Maine, with 4,258 fishermen engaged. We do not propose to discuss the question as to the benefit or injury to the business by the new modes of capture, only to show that the business is as productive at the present time, with half the number of vessels engaged, as in past years. The tables attached will show that the fleets are of no small size at the present time, and the business of no small importance.

The canning of fish of almost every eatable variety has yearly grown of importance, and is now of large proportion. This branch of the business dates only from 1845, in which year the canning of lobsters and shell-fish began in Maine, for some time the only State that packed fish in tin cans. It has been but a few years since the canning of fish began in Boston, yearly increasing in amount. Boneless fish, now well known, and neatly packed in packages of from five to thirty pounds each, is found in all the leading grocery stores from the Atlantic to the Pacific. This manner of preparing fish dates back many years with but little attention given to it for a long time. Of late years the demand from the fertilizing factories for the refuse left from cutting lessening the cost of preparation, with the cleanly manner of placing on the market and the saving in freight, has made it justly popular with the trade; the demand yearly increases. Its preparation, with the canning of fish, gives employment to a large number of men and women.

It hardly seems possible that an article so universally used as ice was unknown to the fish trade forty years ago. At the present time no market fisherman would think of starting on his trip (except in the winter) without ice any more than without bait or seine. During 1845 vessels first began carrying ice to sea with them and dealers to use it in packing fish for shipment; previous to that date its use was considered injurious to the fish. At the present time about 20,000,000 pounds are annually used by vessels and dealers. Through its use fresh fish are now shipped at all seasons of the year as far inland as Chicago.

As far back as we find any record of the fishing business, we find the use of nets of some kind in taking the catch. In past years those used by the New England fishermen were mostly "home made." During the winter or stormy season the fishermen with wife and family found plenty of work in making nets. Of late years their use in the various branches of the fisheries has largely increased. They are now nearly all factory-made of a great variety, including the fine flax-thread net of the ship fishery, the larger purse seine of the mackerel and menhaden catch, the large dragnet of the Southern fisheries as well as numerous other varieties.

Two large factories in this city give employment to some 500 persons, mostly girls, furnishing most of the seines and nets used on the Western lakes and rivers as well as the Atlantic coast fisheries, with some demand for export. The first factory in Boston was started in 1842; from that date until 1865 the nets were all hand-made. In the latter year machinery was first introduced in their manufacture in this city and is now almost exclusively used. We have briefly alluded to the various branches of the fishing industry. Another branch largely represented in Boston is that of the Provincial catch sent to the Boston market for sale. Our tables of monthly receipts will show the amount of the past year, which is less than the average of late years, caused by the partial failure of their catch. The earliest record of the importation of mackerel that we find is of 7 barrels in 1821. From that date up to 1831 only a few hundred barrels were annually imported. In the latter year, 4,300 increasing up to 1841 to 10,887; from that year until 1849 the records were destroyed by fire. In the latter year it had increased to 138,505 barrels; and yearly, from that date, from 50,000 to 100,000 barrels of mackerel, with a large amount of all the other varieties of fish caught in the Provinces find a ready market in Boston.

The late Capt. ...
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The late Capt. T. J. Jones is credited with being one of the first pioneers in the importation of fish from the Provinces, being engaged as master of the Boston and Halifax mail packet from 1834 until 1844. He early introduced the importation of fish and lived to see his efforts grow into a large and important branch of the business.

REPORT.—1881.

OFFICE OF BOSTON FISH BUREAU, 176 ATLANTIC AVENUE,
Boston, January 2, 1882.

Our last annual report, showing a more prosperous condition of the fisheries than for a number of years, was closed with the "hope that the record of the coming season's business may be more favorable than the one just ended." We are pleased to open this report by calling attention to the tables attached, which speak for themselves, and show that the hope then expressed has been fulfilled, and the season of 1881 may justly be placed on record as the most successful one for years. The statistics of monthly receipts also show quite an increase of business by Boston dealers, and that the market has at all times been well supplied with nearly every variety of cured (salt-water) fish, taken in New England and provincial waters. That this fact is appreciated by the trade is evident in the steady gain of business, as shown in the table of receipts for the past five years.

There is probably no industry with like capital and number of persons engaged that nearly shows as great a loss of life and property. With no severe gales or storms, the past season yet shows considerable loss, and this must be recorded as the dark side of an otherwise prosperous year. The losses, as usual, nearly all fall on the bankers from Gloucester, that port losing 7 sail, with 43 men, the value of vessels and property \$32,800, on which there was insurance of \$20,493. The loss of life from other ports included aggregates a total of 50 men, while the loss of property has been limited to damaged sails and numerous seine-boats.

The number of sail, catch, and persons employed in the codfish and mackerel fishery vary but little from that of 1880; the catch reported by them in the aggregate, as well as individual vessels, shows a favorable gain. The catch has found a ready market at all seasons, with higher prices than for several years. Much encouragement is felt for the future, and from all sides we hear of active preparations for the business of 1882, with some addition to the number of sail, a number of which are new vessels.

Mackerel.—The catch opened unusually early, schooner Edward E. Webster on March 22 taking the first fare, 32,700 mackerel, 800 of which were large, balance medium and small. The first fare of new salt mackerel arrived in Boston May 9, one day earlier than in 1880, schooner Roger Williams landing 240 barrels that were caught off the Jersey coast. May 10, schooner J. S. McQuinn arrived with the first fare of fresh mackerel, 200 barrels caught southeast from Sandy Hook. First cargo arrived fresh same date in 1880. May 4 the first catch was made in the weirs at Cape Cod; previous year on April 26. March 25, schooner Lizzie K. Clark was capsized by a squall and lost, 20 miles from Barnegat; the crew were saved. This was the only mackerel vessel lost during the season. Although the season opened early the catch up to June was mostly taken South and sold fresh. The catch of cured mackerel reported at this office during the season, up to November, was as follows:

May	barrels..	1, 670
June	do.....	38, 683
July	do.....	81, 748
August	do.....	70, 424
September	do.....	71, 643
October	do.....	57, 268

A light catch in November brought the season to an early close, the total catch of the New England fleet, of 298 sail, being 391,657 barrels, of which 269,495 were packed and inspected in Massachusetts, a gain in the Massachusetts inspection of 19,534 barrels over 1880. This amount has been exceeded but five times in seventy-eight years.

As will be noticed, the catch off the New England coast opened a little later than usual, and continued good all the season, with the exception of 470 barrels the entire catch being taken off the United States coast. The size and quality were of an average, with more No. 1's, and an absence of the very small, or No. 4. The price opened low, the first sale recorded being at \$4.50 a barrel for large, \$3.75 for medium, falling in June to \$4 for packed, or early 3's; inspected 3's, 2's, and 1's selling through the season as follows: July, \$3.25, \$3.50 for 3's; \$5.25, \$5.50 for 2's. August, \$3.25, 3's; \$5.25, 2's. September, \$4.25, 3's; \$6.50, 2's; \$16, 1's. October, \$6, \$8 to \$9, \$18. November, \$3.50, \$9, \$19. December, \$7.50, 3's; \$9 to \$10, 2's; \$20, 1's.

The catch in Provincial waters being a failure, our imports show a falling off of 43,880 barrels. Fortunately very few American vessels visited them, securing only 470 barrels; they returned home in season to make a good record.

Codfish.—with which we may include the other varieties of ground fish, have been of an average catch, both off the New England coast as well as the Grand and Western Banks. The receipts in this market show quite a gain over the past few years. A steady increased home demand, with an average export shipment, has held prices firm at an advance of \$1 to \$1.25 a quintal over the previous year. Vessels that went to the Grand Banks made long voyages, yet generally returned with full fares, some exceptionally large; of which we notice schooner Willie McKay, of Provincetown, with 3,700 quintals, making a stock of \$14,000.

Herring.—The shore catch of herring being much less than that of 1880, our domestic receipts show a decrease, which is made up from the Provinces; the total receipts a slight gain.

Salmon.—A failure of the catch in provincial waters accounts for small receipts. The decrease having been made up by receipts from California, our receipts showing a small gain.

Box herring.—The receipts, 612,432 boxes, are an increase of 198,825 boxes over that of 1880, and the largest on record. Large as this amount is it has all gone into consumption, and no stock remains on the market.

Other varieties of fish are without special change; with but few exceptions the receipts have been in excess of last year.

Fresh fish.—This branch of the fish business of Boston is now of considerable importance, annually handling some 30,000,000 pounds of fresh fish, and during the past year 70,000 barrels of fresh mackerel and 18,000 barrels of frozen herring. The catch has been an average one, at nearly all times supplying a demand from all parts of the country, as far west as Chicago, for the numerous varieties of salt-water fish found in these waters. The vessels and men engaged in this branch do not appear in our statistics.

Canned fish.—We have previously alluded to this branch of the business, of its commencement in the country. Until the past few years this market has been supplied with large quantities of goods packed at other ports, many of the factories being owned here. During the past two years the business of packing has been largely increased in this city; during the past season, of fresh mackerel, about 50,000 cases, or 2,200,000 1-pound cans, have been packed, and much of the time the demand has not been supplied. This branch of the business, buying and packing several hundred barrels a day, when the fish can be procured, is of much value to the vessels that give their attention to selling fresh. It is also of value in giving employment to large numbers of employes in the factories. Nearly all the usual varieties of fish found in our markets are now more or less packed in tin cans by our packers, all of which are meeting with favor and a constantly increasing demand.

Foreign imports and exports.—Our monthly table of receipts will show that this city continues to be a leading market for the fish productions of the Provinces. During the past year the receipts in most cases show a decrease, caused by the partial failure of the provincial catch.

Our foreign exports have been of an average amount. As long as the domestic demand yearly increases the want of large exports to dispose of the catch is not felt, as in past years.

As we close our report we wish to return our thanks to our numerous correspondents that have, from time to time, furnished us with information, and at the close of the season aided us in giving a complete record of the business by ports. We shall be happy to return the favor and do all in our power to aid the New England fishing industry.

W. A. WILCOX, Secretary.

Large catches and "s

Schooner Alice, Swan's
Schooner Edward E. Wel
Schooner Isaac Rich, Sw
Schooner Frank Butler,
Schooner A. E. Herriek,
Schooner Robert Pettis,
Schooner Roger William,
Schooner R. J. Evans, H
Schooner Louise and Ro
Schooner Mertie and De
Schooner Bertie Pierce,
Schooner Eben Dale, No
Schooner Oasis, North H
Schooner Cora Smith, No
Schooner Lottie Hopkins
Schooner David Brown, I
Schooner Dictator, Harw
Schooner A. H. Whitmon
Schooner Miantonouoh,
Schooner F. M. Loring, C
Schooner Daniel J. Marcy
Schooner Mary Snow, Pr
Schooner Lizzie Thomps
Schooner G. W. Brown, I
Schooner Alaska, Southp
Schooner Emma O. Curtis
Schooner American Eagle
Schooner Longwood, Prov
Schooner Alice, Boston
Schooner Eddie Pierce, B
Schooner Neponset, Bosto

1 3,065 ba
2 1,600 ba
3 The He
4 Avera

New England fleet

Ports.

Masachusetts:
Beverly.....
Chatham.....
South Chatham.....
Dennisport.....
South Dartmouth.....
Fairhaven.....
Glocester.....
Harwich.....
Kingston.....
Marblehead.....
Provincetown.....
Plymouth.....
Rockport.....
Total.....

New Hampshire:

Portsmouth.....
Free:
Booth Bay.....
Backsfort.....
Bremton.....
Calais.....
Deer Isle.....
Eastport.....
Georgetown.....
Hancock.....
Harpwell.....
North Haven.....

Amount credited to each
port, and vessels from other
ports but fleet included in nu

Large catches and "stocks" by the mackerel fleet in New England waters—season of 1881.

Name of vessel and home port.	Barrels cured.	Amount of stock.
Schooner Alice, Swan's Island, Me ¹	4,905	\$28,055 23
Schooner Edward E. Webster, Gloucester, Mass ²	4,500	28,570 00
Schooner Isaac Rich, Swan's Island, Me.....	3,276	15,500 00
Schooner Frank Butler, Boston.....	2,600	15,000 00
Schooner A. E. Herrick, Swan's Island, Me ³	2,280	13,674 00
Schooner Robert Pettis, Wellfleet, Mass.....	2,580	12,410 18
Schooner Roger Williams, North Haven, Me.....	2,450	12,000 00
Schooner B. J. Evans, Harwichport, Mass.....	3,000	12,000 00
Schooner Louise and Rosie, Booth Bay, Me.....	3,028	11,557 46
Schooner Mertie and Delmar, South Chatham, Mass.....	3,005	14,138 00
Schooner Bertie Pierce, North Haven, Me.....	42,300	11,000 00
Schooner Eben Dale, North Haven, Me.....		11,500 00
Schooner Oasla, North Haven, Me.....		11,000 00
Schooner Cora Smith, North Haven, M.....		11,000 00
Schooner Lottie Hopkins, North Haven, Me.....		6,000 00
Schooner David Brown, North Haven, Me.....	2,460	6,000 00
Schooner Dictator, Harwichport, Mass.....		10,350 00
Schooner A. H. Whitmore, Deer Is., Me.....		10,150 00
Schooner Mantonmoh, Newburyport, Mass.....		9,900 00
Schooner F. M. Loring, Cohasset, Mass.....		9,404 00
Schooner Daniel J. Marcy, Portsmouth, N. H.....	1,930	8,400 00
Schooner Mary Snow, Provincetown, Mass.....	1,602	7,825 00
Schooner Lizzie Thompson, Newburyport, Mass.....	1,550	7,000 00
Schooner G. W. Brown, Newburyport, Mass.....	1,210	5,750 00
Schooner Alaska, Southport, Me.....	1,235	6,083 00
Schooner Emma O. Curtis, Prov..... Mass.....	1,225	Not reported.
Schooner American Eagle, Provincetown, Mass.....	1,150	Not reported.
Schooner Longwood, Provincetown, Mass.....	1,125	Not reported.
Schooner Alice, Boston.....	2,004	Not reported.
Schooner Eddie Pierce, Boston.....	2,070	Not reported.
Schooner Neponset, Boston.....	2,100	10,802 00

¹3,065 barrels pickled, and 1,240 barrels fresh; total, 4,905 barrels.²1,600 barrels pickled, and 2,900 barrels fresh; total, 4,500 barrels.³The Herrick did not sail until July 22.⁴Average barrels each.

New England fleet catch of codfish, as reported to the Boston Fish Bureau, 1881.

Ports.	Vessels in North Bay.	Grand and Western Banks.	New England shore and George's Banks.	Total fleet.	Total crew.	Catch in North Bay.	Catch on Grand and Western Banks.	Catch on New England shore and George's Banks.	Total number.	Other ground fish included.
Massachusetts:						<i>Quint's.</i>	<i>Quint's.</i>	<i>Quint's.</i>	<i>Quint's.</i>	
Beverly.....	8	5	13	120	.....	9,850	550	10,400	250	
Chatham.....	1	3	4	43	.....	800	1,000	1,800	500	
South Chatham.....	1	.....	1	10	.....	850	.....	850	.....	
Dennisport.....	.....	2	2	22	.....	.....	600	600	.....	
South Dartmouth.....	1	1	1	10	.....	900	.....	900	.....	
Fairhaven.....	1	1	2	20	.....	820	1,108	1,028	108	
Gloucester.....	107	153	260	2,010	.....	103,700	268,100	431,800	(*)	
Harwich.....	1	.....	1	10	.....	450	.....	450	.....	
Kingston.....	3	.....	3	34	.....	2,400	.....	2,400	.....	
Marblehead.....	1	.....	1	12	.....	1,200	.....	1,200	.....	
Provincetown.....	10	46	8	64	10,300	74,000	2,017	86,317	.....	072
Plymouth.....	7	.....	7	71	.....	3,120	.....	5,120	.....	
Rockport.....	2	6	8	65	.....	1,500	8,375	4,875	.....	875
Total.....	10	179	178	367	4,254	10,300	263,500	274,750	518,640	.....
New Hampshire:										
Portsmouth.....	6	15	21	234	.....	9,000	5,000	14,000	3,500	
Maine:										
Booth Bay.....	9	18	27	102	.....	8,050	11,022	19,072	10,263	
Rockport.....	6	.....	6	80	.....	6,826	.....	6,826	.....	
Bremen.....	4	4	8	65	.....	5,000	1,800	6,800	.....	
Calais.....	1	2	3	20	.....	800	2,500	3,300	2,500	
Deer Isle.....	.....	1	1	6	.....	.....	500	500	.....	
Eastport.....	3	17	20	200	.....	3,500	24,500	28,000	22,100	
Georgetown.....	.....	10	10	58	.....	.....	5,500	5,500	4,000	
Hancock.....	2	.....	2	25	.....	4,000	.....	4,000	.....	
Harpwell.....	.....	10	10	70	.....	.....	9,700	9,700	0,900	
North Haven.....	5	4	9	75	.....	2,000	4,500	6,500	4,500	

Amount credited to each port is the amount landed there, vessels from this port landed at other ports, and vessels from other ports landed at this one.

Hullbut fleet included in number of sail, their catch, 7,093,400 pounds.

New England fleet catch of codfish, as reported to the Boston Fish Bureau, 1881—Cont'd.

Ports.	Vessels in North Bay.	Grand and Western Banks.	New England shore and George's Banks.	Total fleet.	Total crew.	Catch in North Bay.	Catch on Grand and Western Banks.	Catch on New England shore and George's Banks.	Total number.	Other ground fish included.
Maine—Continued.							Quint's.	Quint's.	Quint's.	Quint's.
Lamoine.....		4	4	48			6,000	6,000		
Orland.....			2	96			7,874	7,874	400	
Portland.....	20	47	67	616			18,000	60,000	78,000	85,000
Swan's Island.....		4	4	20				1,000	1,000	
Southwest Harbor.....		6	6	48				4,350	4,350	1,350
Southport.....	10		10	146			6,600	9,600		
Sedwick.....	1		1	12			1,100	1,100		
Vinal Haven.....		20	20	128				14,175	14,175	12,375
Total.....		73	143	216	1,914		72,750	139,637	212,367	
Total New England fleet:										
1881.....	10	258	336	604	6,402	10,300	345,340	419,387	775,027	
1880.....	10	253	315	579	6,068	10,200	306,990	335,236	647,426	

New England catch of mackerel—amount of inspected barrels packed at home ports, as reported to the Boston Fish Bureau, 1881.

Ports.	Northeast shore fleet.	Southern fleet.	Total number of sail.	Total number of crews.	Northeast shore catch.	Southern catch.	Total Northeast fleet catch.	Remarks.
Massachusetts:							Barrels.	
Boston.....	15	5	21	296	63,708	5,611	69,669	
Cohasset.....	7		7	100	2,013		8,013	
Chatham.....					170		170	Weir caught.
South Chatham.....	1	4	5	75	8,940	1,470	10,410	
Dennisport.....		3	3	45	2,646	900	3,546	1,536 weir caught.
Fairhaven.....	1		1	18	220		220	
Gloucester.....	59	46	106	1,548	120,597	9,000	129,637	
Harwich.....		9	9	140	4,388	5,500	9,888	6,100 barrels landed at Booth Bay additional.
Newburyport.....		3	4	59				
Rockport.....	6		6	65	290		290	Total catch, 3,500.
Provincetown.....	8		8	120	6,175		6,175	3 sail packed at Boston.
Wellfleet.....	33	3	36	508	30,977	500	31,477	5 sail packed at Boston.
Total.....	130	73	206	2,975	246,184	22,061	268,405	
Maine:								
Booth Bay.....	4	9	13	185	14,259	800	15,059	6,100 of these landed by Harwich sail.
Camden.....	3		3	39				
Deer Isle.....	1	1	2	28	2,280	223	2,503	
Northaven.....	5	5	10	120	500		500	
Portland.....	35		35	490	91,860		92,000	
Southport.....	8		8	120	5,000		5,000	
Sedwick.....	1		1	15			(*)	Landed at New York and Philadelphia Southern catch.
Swan's Island.....	10	2	12	180		1,700	1,700	
Total.....	67	17	84	1,177	113,899	2,723	116,762	
New Hampshire:								
Portsmouth.....	5	3	8	206	8,700	1,700	10,400	
Catch of total New England fleet:								
1881.....	202	93	295	4,258	363,783	27,404	391,657	
1880.....	201	92	327	4,778	332,954	9,419	349,674	

* Numerous vessels from other ports included.

* Part of the catch landed at Boston and Portland. Amount given packed at home port.

* None packed at home port.

The Shore fleet mentioned above are only the vessels that fished nowhere else; to which may be added the Southern and North Bay fleets after they returned from their unsuccessful cruise in the waters, making the total shore fleet 298 sail.

Fish.

Mackerel.....
Mackerel, Boston fleet.....
Herring.....
Alewives.....
Salmon.....
Trout.....
Herring, smoked.....
Roasters, smoked.....
Cod.....
Hake.....
Haddock.....
Pollock.....
Cusk.....
Shad.....
Boneless fish.....

Fish.

Mackerel.....
Mackerel, Boston fleet.....
Herring.....
Alewives.....
Salmon.....
Trout.....
Herring, smoked.....
Roasters, smoked.....
Cod.....
Hake.....
Haddock.....
Pollock.....
Cusk.....
Shad.....
Boneless fish.....

Massachusetts

Year.

1884.....
1885.....
1886.....
1887.....
1888.....
1889.....
1890.....
1891.....

Fish received by Boston dealers, 1878 to 1881.

Fish.	1878.			1879.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel.....barrels	31,881	78,689	143,028	33,818	84,213	167,444
Mackerel, Boston fleet.....	32,458			49,413		
Herring.....barrels	22,810	42,803	65,110	26,146	30,696	56,844
Alewives.....do	4,014	3,117	7,131	793	5,737	6,532
Salmon.....do		3,006	3,006	145	5,868	6,013
Trout.....do		203	203		1,437	1,437
Herring, smoked.....boxes	214,715	171,508	386,223	291,473	168,876	460,349
Blottern, smoked.....do	17,629		17,629	23,077		23,077
Cod.....quintals	174,624	9,034	183,658	128,912	21,989	150,901
Hake.....do	45,700	10,073	55,673	27,069	6,610	33,679
Halibut.....do	9,683	1,683	11,366	9,155	922	10,077
Pollock.....do	2,601	2,247	4,848	1,598	3,487	5,035
Cook.....do	2,917		2,917	2,059	212	2,271
Shad.....barrels		1,102	1,102		3,042	3,042
Boneless fish.....boxes	3,015		3,015	5,915		5,915

Fish.	1880.			1881.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel.....barrels	36,761	105,730	196,499	73,653	61,850	204,929
Mackerel, Boston fleet.....	54,002			69,669		
Herring.....barrels	26,492	29,316	55,802	12,420	44,906	56,998
Alewives.....do	1,351	5,682	7,033	2,184	8,104	10,288
Salmon.....do	569	2,332	2,892	980	1,997	2,977
Trout.....do		698	698		1,147	1,147
Herring, smoked.....boxes	262,482	118,115	443,597	337,830	274,592	612,412
Blottern, smoked.....do	20,603		20,603	29,619	810	30,429
Cod.....quintals	124,338	30,151	163,489	123,450	56,852	182,302
Hake.....do	32,222	8,810	41,032	41,021	7,901	48,922
Halibut.....do	9,172	976	10,148	5,702	1,631	7,423
Pollock.....do	1,523	2,762	4,285	1,773	3,620	4,793
Cook.....do	1,362	187	1,549	1,469	38	1,507
Shad.....barrels		1,975	1,975		1,152	1,152
Boneless fish.....boxes	9,646	54	9,700	14,293	816	14,606

Massachusetts catch of mackerel for seventy-eight years—1804-1881.

Year.	Total.	Year.	Total.	Year.	Total.
1804.....	8,070	1811.....	17,890	1818.....	47,210
1805.....	8,986	1812.....	6,750	1819.....	105,433
1806.....	8,473	1813.....	3,832	1820.....	120,602
1807.....	10,904	1814.....	1,349	1821.....	111,009
1808.....	7,738	1815.....	16,394	1822.....	150,294
1809.....	8,885	1816.....	30,021	1823.....	145,006
1810.....	13,058	1817.....	37,482	1824.....	180,636

Massachusetts catch of mackerel for seventy-eight years—1804-1881—Continued.

Year.	Quality.				Total.
	No. 1.	No. 2.	No. 3.	No. 4.	
1804	20,637	109,840	114,004	.....	234,381
1805	43,499	80,584	35,657	.....	159,740
1806	81,357	69,341	39,612	.....	190,310
1807	63,235	110,666	63,423	.....	237,324
1808	54,184	106,471	65,222	.....	225,877
1809	47,892	104,589	156,024	.....	308,505
1810	70,198	171,296	142,104	.....	383,598
1811	28,678	97,220	96,554	.....	222,452
1812	54,659	98,925	60,442	.....	213,926
1813	80,434	93,553	78,897	.....	252,884
1814	48,217	57,271	91,923	.....	197,411
1815	56,811	90,538	90,187	.....	237,536
1816	81,306	61,027	22,558	.....	164,891
1817	37,968	28,588	44,184	.....	110,740
1818	22,191	22,037	30,015	.....	74,243
1819	19,350	11,049	20,091	.....	50,490
1820	23,747	10,241	21,149	.....	55,137
1821	20,363	22,496	23,684	.....	75,543
1822	32,759	13,088	18,604	.....	64,451
1823	28,843	22,515	34,823	.....	86,181
1824	128,086	85,008	88,520	.....	301,614
1825	140,338	73,403	65,520	.....	279,261
1826	104,150	76,007	71,760	.....	251,917
1827	26,459	88,404	108,176	.....	313,040
1828	69,300	94,847	67,709	21,058	312,914
1829	88,401	44,909	37,604	614	271,528
1830	90,768	102,467	135,597	.....	328,832
1831	92,617	73,708	47,066	3,164	216,555
1832	49,010	21,583	30,987	19,843	120,423
1833	30,095	46,242	55,133	3,378	134,848
1834	29,487	91,025	9,000	1,338	130,850
1835	89,032	76,819	47,988	178	214,017
1836	91,917	49,775	40,962	724	192,378
1837	75,347	21,920	32,333	1,962	131,561
1838	51,330	12,160	22,207	4,148	89,845
1839	58,838	122,807	50,578	3,460	234,703
1840	70,877	100,366	22,485	633	194,291
1841	81,962	78,368	100,011	562	260,863
1842	67,085	136,075	102,601	280	306,041
1843	103,883	137,746	23,212	14	273,255
1844	153,728	63,562	35,266	224	252,775
1845	150,322	36,318	41,481	269	231,390
1846	122,308	46,038	41,948	418	210,712
1847	93,092	42,262	44,077	62	179,492
1848	72,914	92,019	65,717	3,649	234,199
1849	66,046	189,422	63,019	33	318,520
1850	105,187	85,867	68,222	38	259,414
1851	71,867	54,371	55,603	115	181,956
1852	88,687	63,888	37,795	366	185,736
1853	112,971	71,422	73,966	.....	258,359
1854	88,106	19,275	73,375	4,261	180,917
1855	80,800	96,778	93,481	4,818	275,877
1856	18,015	37,208	37,700	12,094	103,017
1857	14,094	48,170	70,176	11,765	144,205
1858	9,025	91,114	54,806	352	155,297
1859	20,452	104,434	109,550	15,516	249,952
1860	.....	.....	.....	.....	209,405

EIGHTH ANNUAL REPORT OF THE BOSTON FISH BUREAU, JANUARY, 1883.

REPORT.

OFFICE OF BOSTON FISH BUREAU,
Boston, January 1, 1883.

In presenting our eighth annual report, we take pleasure in once more reporting the fishing industry of New England in a more flourishing condition than for many years. The season just closed has been a successful and prosperous one to the producer, and a steady healthy demand with no failures of note has given the dealers no cause for complaint. The leading varieties of fish, with the regularity of the seasons, appeared in large bodies, each giving promise of more than an average catch. As the season advanced, the catch, from numerous causes, fell off much from general expectation, yet meeting the demands of the trade, and holding prices firm all the season. The dark side of the business must yearly be noticed. The losses of life and property the past year have been, with the exception of 1876, 1879, the largest for many years.

Seventeen vessels a
and or ground fishe
sels or lives were lo
reason than ever be
eel catch; schooner
March 11, and haul
gross, \$39,750, or ne
for the two previous
The schooner Nolle
not quite as large;
Our table of larg
have realized what
The list might be ex
Many vessels in th
tice a few of them.
to December 4, 1882,
men shared, \$916.11
pounds of cod on the
Willie McKay, of Fr
single voyage. Man
with 250,000 to 300,0
With the success o
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With present appli
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Yearly more attenti
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Baird, Commissioner
and practical applica
States, by which assu
may be met. Throug
States Census and Fis
knowing the size an
given the aggregate re
the interior. On page
of New York and the
waters we give the lis
Mackerel.—The total
barrels; of this 258,716
exceeded but eight tim
ports in March, more v
N. Rowe took the first
1881 was March 22. T
previous year, on May
grounds arrived at Bo
plenty, and worked no
successful than for a num
The season's catch is
than the previous year
the fall catch being in
Boston, was the only v
she returned with 275 b
The catch by the pro
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an upward tendency fr
year, selling unsuspect
selling in August, \$6.49
\$11, \$14, for No. 1's, 2's,
fish caught in October,
extra large, a steady de
remained on hand at th
Codfish.—The total ca
of codfish, and 235,340 q
quintals. The Grand B
with full fares. The ca
was less than the averag
above catch of herring w

Seventeen vessels and 117 men have been lost during the year, all of which were in the cod or ground fishery, and nearly all from the single port of Gloucester; not any vessels or lives were lost in the mackerel fishery. Larger stocks have been made the past season than ever before known. We notice specially only two engaged in the mackerel catch; schooner Edward E. Webster, Capt. Solomon Jacobs, of Gloucester, sailed March 11, and hauled up November 11, just eight months engaged; her catch realized, gross, \$39,750, or net \$34,320; she carried a crew of 17 men. The stock of this vessel for the two previous years in the mackerel fishery was in 1890, \$19,850; 1891, \$26,950. The schooner Nellie N. Rowe, of the same port, made a stock the past year nearly if not quite as large; we regret not having the exact amount.

Our table of large stocks in the mackerel fishery mention over thirty others who have realized what would have been considered small fortunes not many years ago. The list might be extended to greater length; suffice to say all done well.

Many vessels in the cod and halibut fishery also have large records. We only notice a few of them. Schooner Grace L. Sears, of Gloucester, from December 31, 1891, to December 4, 1892, stocked in the halibut fishery, net, \$26,426.81; the crew of 14 men shared, \$916.11 each. Schooner H. B. Griffin, of the same port, caught 400,000 pounds of cod on the Banks, the largest single fare reported from that port. Schooner Willie McKay, of Provincetown, 436,800 pounds of codfish, stock about \$19,000 for a single voyage. Many other vessels from the last port arrived home from the Banks with 250,000 to 300,000 pounds of cod each, realizing from \$12,000 to \$16,000 each.

With the success of the past two seasons it is not surprising that great confidence is felt in the future of the New England fisheries.

With present appliances for the catch not as many vessels are needed as in days of drailing and hand-line fishing, yet the cod and mackerel fleets have been largely increased and many more new vessels will be finished in time for the coming season's business. During the past year, 81 vessels have been built for the fishing fleets. Yearly more attention appears to be given to the fishing business, as one of the important industries of the country, and with the growth annually the demand increases for the products of the fisheries. The nation is largely indebted to Prof. Spencer F. Baird, Commissioner of United States Fisheries, for both the scientific knowledge and practical application of the propagation of the various food fishes of the United States, by which assurances are given that the steady growing demands of the country may be met. Through the reports of his field agents, made in the interest of the United States Census and Fish Commission, we, for the first time, have the opportunity of knowing the size and importance of the industry. As a matter of interest we have given the aggregate reports, which do not include the Gulf States or the large rivers of the interior. On pages 30 to 33 will be found the names of the leading fish taken south of New York and the catch for 1890. As so little is known of the fisheries in those waters we give the list entire.

Mackerel.—The total catch by the New England fleet amounted to 378,853 inspected barrels; of this 258,716 barrels are credited to Massachusetts. This amount has been exceeded but eight times during the past fifty years. The early fleet sailed from home ports in March, more vessels going South than for many years. The schooner Nellie N. Rowe took the first fare on March 31; the fish were of mixed sizes. First catch in 1891 was March 22. The first mackerel taken in the weirs at Cape Cod, April 20; previous year, on May 4. The first fare of salt mackerel direct from the fishing grounds arrived at Boston on May 4; in 1891, May 9. The fish were found quite plenty, and worked north slowly; the vessels that made an early start were more successful than for a number of years.

The season's catch is noticeable as having been of larger size and poorer quality than the previous year. As the season advanced the fish did not improve as usual, the fall catch being inferior to that of midsummer. The schooner Yankee Lass, of Boston, was the only vessel from the United States that fished in provincial waters; she returned with 275 barrels.

The catch by the provincial fishermen was the smallest for years, and accounts for the large decrease in the amount imported at this port. Prices have held firm with an upward tendency from the first of the season, and much higher than the previous year, selling unexpected in June at \$4; July, \$6 to \$7; August, \$8 to \$9; inspected selling in August, \$6, \$9, \$12; September, \$7, \$10, \$13; and in October and later, at \$2, \$11, \$14, for No. 1's, 2's, and 3's. During September the catch rapidly fell off with few fish caught in October, and the fleet early gave it up. Although the total catch was extra large, a steady demand prevented any large accumulation; only a small amount remained on hand at the close of the year.

Codfish.—The total catch of cured fish by the New England fleet was 663,564 quintals of codfish, and 235,340 quintals of hake, haddock, pollock, and cusk; total of 898,904 quintals. The Grand Bank fleet, with few exceptions, made but one trip, returning with full fares. The catch of cod on Georges Banks and off the New England shore was less than the average. Hake have been more plenty than for many years. The above catch of herring was much under the average.

Box herring.—Have been in larger receipt than any year that we have a record of: a steady demand has called for them on arrival and no amount of stock remains on hand.

Canned fish.—During the past few years this comparatively new branch of the business has grown to large size and importance.

In former years fresh fish often arrived on the market largely in excess of the demand, and had to be sold for almost nothing or thrown away, often the latter. Now the canners are always ready to take the catch at good prices, thereby adding thousands of dollars to the receipts of the fishermen as well as giving employment to a large number of hands on shore. As far back as 1844 fresh fish were canned in Boston, but only to a very limited extent up to 1880, since which time the amount canned is only limited by the supply of fish. The favor which it meets on the market speaks for itself, when for self-protection Boston firms in taking orders have been obliged to adopt the rule on receiving them, only, "subject to the pack," which in turn is subject to the abundance of the catch. The packing of American sardines may date from Eastport, Me., in 1876, in which year 4,000 cases were packed, mostly quarter cans packed in oil, 100 cans in a case. Yearly the business has grown until, in 1881, fifteen factories at Eastport and three at Lubec packed 190,000 cases, three-fourths of which were quarter boxes packed in oil, 100 cans in a case; one-eighth half cans in mustard, 50 cans in a case; one-eighth spiced sardines and sea trout. The past season, owing to the scarcity of fish, only 125,000 cases were packed, giving employment to 500 men and 700 boys and girls in addition to the fishermen engaged in providing the catch.

The foreign export trade has been smaller than for many years, especially the trade with Hayti, severe sickness in that island and the low prices prevailing here for coffee and logwood combining to produce this result. The smallness of this branch of trade, however, has not been felt by the dealers, owing to the unusually large home demand. Other branches of the trade are without special note.

During the past year the Boston market has, at nearly all times, been able to supply the country with everything in the way of salt-water fish, be it cured, canned, or fresh, and, as it is the only city that can do this, it continues to hold its old time prestige as a distributing point, both for domestic and imported fish. This fact is fully appreciated by the trade, as shown by the large receipts and the small amount of stock on hand at the close of the past year.

The new year opens with a small amount of stock on hand and an improved financial condition of both producer and dealer as the result of the year's business, thus giving renewed hope and encouragement to all interested in this important branch of the New England industries. We trust the day is far remote when less can be said for its prosperity.

W. A. WILCOX,
Secretary.

New England fleet, catch of cod and other ground fish, landed at home ports, as reported by the Boston Fish Bureau.

Ports.	Vessels on Grand and Western Banks.	Vessels on north-east shore and George's Bank.	Total fleet.	Total crew.	Catch on Grand and Western Banks.	Catch on north-east shore and George's Bank.	Total.
Massachusetts:					<i>Quintals.</i>	<i>Quintals.</i>	<i>Quintals.</i>
Beverly ¹	6	6	12	126	5,000	700	5,700
Chatham.....	1	6	7	80	1,700	1,700	3,400
South Chatham ¹	1	1	2	30	250	250	500
Fairhaven.....	1	1	2	31	900	900	1,800
Gloucester ¹	159	125	284	3,442	285,000	194,000	479,000
South Harwich.....	1	1	2	15	1,275	1,275	2,550
Kingston.....	1	1	2	12	1,225	1,225	2,450
Marblehead.....	1	1	2	13	1,240	1,240	2,480
Provincetown ¹	64	19	83	975	101,870	1,065	102,935
Plymouth ¹	2	2	4	24	1,500	1,500	3,000
Rockport ¹	23	4	27	75	1,550	2,300	3,850
South Dartmouth.....	1	1	2	11	1,212	1,212	2,424
Total.....	240	153	393	4,804	400,272	200,915	601,187
New Hampshire:							
Portsmouth ¹	4	6	10	180	.....	2,000	2,000

¹ Part of catch, landed at other than home port.

² Includes North Bay catch, by 14 sail, 2,960 quintals.

³ Includes North Bay catch, by 1 sail, 350 quintals.

⁴ Halibut fleet included in vessels, catch 7,750,685 pounds; amount landed includes vessels from other ports.

New England fleet,

Ports.

Maine:	
Booth Bay.....	.....
Bucksport.....	.....
Bremen.....	.....
Calais.....	.....
Cranberry Lake.....	.....
Cape Porpoise ¹.....	.....
Deer Isle.....	.....
Eastport ².....	.....
Friendship.....	.....
Georgetown.....	.....
Hancock.....	.....
Harpwell.....	.....
North Haven.....	.....
Lamoine.....	.....
Orland.....	.....
Portland ⁴.....	.....
Pemaquid ¹.....	.....
Swan's Island.....	.....
Southwest Harbor.....	.....
Southport.....	.....
Sedgwick.....	.....
Vinal Haven.....	.....
Total.....	.....
Total New England	.....
1882.....	.....
1881.....	.....

¹ Part of
² Catch of
³ 150 small
⁴ Includes
⁵ Includes

New England mackerel

Ports.

Massachusetts:	
Boston ¹.....	.....
Cohasset ¹.....	.....
Chatham ¹.....	.....
South Chatham.....	.....
Dennisport ¹.....	.....
Fairhaven.....	.....
Gloucester ¹.....	.....
Harwich ¹.....	.....
Newburyport ¹.....	.....
Rockport ¹	
Provincetown.....	
Plymouth ¹	
Fairfield.....	
Total.....	

¹ Many
² Many
³ Weir
⁴ All ve

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New England fleet, catch of cod and other ground fish, landed at home ports, &c.—Cont'd.

Ports.	Vessels on Grand and Western Banks.	Vessels on north-east shore and George's Banks.	Total fleet.	Total crew.	Catch on Grand and Western Banks.	Catch on north-east shore and George's Banks.	Total.
Maine:					Quintals.	Quintals.	Quintals.
Booth Bay	8	25	33	904	7,750	12,700	21,450
Backport	6	4	10	74	7,350	.....	7,350
Bremen	4	4	8	65	5,000	1,800	6,800
Calais	1	2	3	29	800	2,500	3,300
Cranberry Isle .....	.....	5	5	60	.....	5,000	5,000
Cape Porpoise ¹ .....	.....	16	16	80	.....	4,500	4,500
Deer Isle .....	.....	(¹)	.....	.....	.....	650	650
Eastport ²	2	20	22	500	2,500	28,000	30,500
Friendship .....	.....	30	30	200	.....	12,750	12,750
Georgetown .....	.....	11	11	68	.....	6,786	6,786
Hancock	2	.....	2	25	4,000	.....	4,000
Harpswell .....	.....	10	10	70	.....	8,000	8,000
North Haven	4	4	8	75	2,500	2,900	5,400
Lancino .....	.....	4	4	48	5,000	.....	5,000
Orland	8	.....	8	84	7,350	.....	7,350
Portland ⁴	20	51	71	728	20,000	102,000	122,000
Pemaquid ¹ .....	.....	(¹)	.....	75	.....	11,700	11,700
Swan's Island .....	.....	4	4	20	.....	1,200	1,200
Southwest Harbor .....	.....	11	11	85	.....	4,425	4,425
Southport	9	.....	9	132	7,250	1,000	8,250
Sodgewick	3	.....	3	33	3,300	.....	3,300
Vidal Haven .....	.....	25	25	128	.....	15,000	15,000
Total	71	218	289	2,785	73,806	221,911	295,717
Total New England fleet:							
1882	315	377	692	7,719	474,078	424,826	898,904
1881	268	336	604	6,402	355,640	419,387	775,027

¹ Part of catch, landed at other than home port.² Catch of small boats included.³ 150 small sail and boats; total men fishing, 500.⁴ Includes receipts from vessels of other ports.⁵ Includes New Harbor, Brown's Cove, and Monhegan, 50 small sail.

New England mackerel catch—amount of inspected barrels packed at home ports, and southern catch, as reported to the Boston Fish Bureau.

Ports.	New England shore fleet.	Southern fleet.	Total number of sail.	Total number of crews.	New England shore catch.	Southern catch.	Total New England fleet catch.
Massachusetts:					In'd bbls.	Barrels.	Barrels.
Boston ¹	24	5	29	435	73,400	9,775	83,175
Cohasset ²	2	5	7	105	1,489	1,082	2,571
Chatham ³	1	.....	1	14	150	.....	150
South Chatham .....	.....	5	5	80	6,961	1,477	8,438
Dennisport ⁴ .....	.....	1	1	58	944	.....	944
Fairhaven	1	.....	1	15	300	.....	300
Gloucester ⁵	96	55	151	2,325	107,222	20,000	127,222
Harwich ² .....	.....	5	5	75	2,075	350	2,425
Newburyport ⁴	2	2	4	51	.....	.....	.....
Rockport ¹	7	.....	7	90	160	.....	160
Provincetown	5	.....	5	78	4,821	.....	4,821
Weymouth ⁴	1	1	2	32	.....	.....	.....
Wellsfleet	28	.....	28	475	28,510	.....	28,510
Total	167	79	246	3,823	230,032	32,694	258,716

¹ Many vessels packed from other ports included.² Many vessels packed away from home ports.³ Weir catch, 769 barrels cured; 2,065 barrel fresh; 43 men.⁴ All vessels packed away from home port.

New England mackerel catch, &c.—Continued.

Ports.	New England shore fleet.	Southern fleet.	Total number of sail.	Total number of crews.	New England shore catch.	Southern catch.	Total New England fleet catch.
New Hampshire:							
Portsmouth ¹	4	4	8	104	In'd bbls. 300	Barrels. 2,041	Barrels. 2,341
Maine:							
Booth Bay ²	7	10	17	224	12,577	2,041	15,118
Camden ¹	3	1	4	80	28		80
Deer Isle ¹	1	1	2	28			28
North Haven ³	8	3	11	132	630	200	830
Portland ³	24	22	46	600	86,027	13,764	100,791
Southport ³	8		8	118	3,538		3,538
Sedgwick ¹	1		1	15			
Total	53	36	88	1,156	103,342	10,505	113,847
Total catch of New England fleet:							
1882	223	119	342	5,083	350,074	49,189	378,863
1881	205	93	308	4,258	304,253	27,304	291,657
1880	235	92	327	4,778	340,255	9,419	319,674

The Southern fleet united with the Shore fleet, after the early catch, making the total Shore fleet 342 sail.

¹ All vessels packed away from home port.

² Many vessels packed away from home ports.

³ Many vessels packed from other ports included.

Receipts of fish by Boston dealers from foreign and domestic ports.

Fish.	January.		February.		March.		April.		May.		June.	
	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.
Mackerel .. barrels ..	609	380	890	723	1,403	1,080	894	379	75	211	468	7,500
Mackerel, Boston fleet, ins. .. barrels ..												
Herrings:												
Pickled .. do.	603	690	61	1,284	1,581	1,642	1,600	252	1,022	79	905	80
Frozen .. do.	6,240	1,603	4,630	4,855	6,413	678	1,430	155				
Salmon .. do.	160	105	51	207	160		245		80		301	
Alwives:												
Pickled .. do.			84				130	14		62	120	1,200
Smoked .. do.										354		30
Trout .. do.				359								
Shad .. do.		85										
Herring, smoked, boxes ..	3,725	20,400	38,195	23,282	7,747	36,151	30,826	30,989	10,659	12,143	32,462	77,700
Boaters, smoked .. do.	6,758	501	4,194	1,322	9,083	1,778	60	538				
Boneless fish .. do.	148		641		650	97	760		801		1,445	
Mackerel, canned .. do.												
Lobsters, canned .. do.		256				100			1,712		420	1,200
Salmon, canned .. do.												
Clams, canned .. do.												
Codfish .. quintals ..	3,742	538	6,323	21	3,504	984	3,993	650	4,025	873	7,095	3,000
Hake .. do.	1,974		140		450			25	32		934	
Haddock .. do.					50						431	
Pollock .. do.	200				35			50	50		353	
Cusk .. do.											168	

Receipts

Fish.

Mackerel ..	bbls.
Mackerel, Boston fleet, inspection ..	bbls.
Herrings, pickled ..	do.
Herrings, frozen ..	do.
Salmon ..	do.
Alwives, pickled ..	do.
Alwives, smoked ..	do.
Trout ..	do.
Shad ..	do.
Herring, smoked ..	bbls.
Boaters ..	do.
Boneless fish ..	do.
Mackerel, canned ..	do.
Lobsters, canned ..	do.
Clams, canned ..	do.
Codfish ..	do.
Hake ..	quintals.
Haddock ..	do.
Pollock ..	do.
Cusk ..	do.

Receipts of fish by Boston dealers from foreign and domestic ports.

Fish.	July.		August.		September.		October.		November.		December.		
	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	
Mackerel.....	bbbls.	6,040	2,233	130	2,675	6,900	8,627	6,620	9,056	3,006	2,363	3,219	2,972
Mackerel, Boston fleet inspection.....	bbbls.												
Herrings, pickled.....	do.	624	3,808	25	7,003	186	10,287	2,681	9,072	611	3,223	417	2,846
Herrings, frozen.....	do.											291	400
Salmon.....	do.	70	42	236	604	382	252	108	62	332	295		58
Alwives, pickled.....	do.	605	3,659		1,400	87	312		2,079		3	153	898
Alwives, smoked.....	do.		55										
Trout.....	do.										1,480		
Shad.....	do.			14	278		705	12	96		18		42
Herring, smoked.....	boxes.	11,081	34,799	6,050	42,312	27,005	48,544	29,790	12,219	32,446	63,399	22,550	36,472
Waters.....	do.						50	951		3,999	118	6,596	609
Smelt, fish.....	do.	504		916		2,318	114	851	46	1,423		870	
Mackerel, canned.....	do.	2,061		4,331	51	1,377	223	845	188	844	946	210	
Waters, canned.....	do.		13,429	504	7,022		4,849		2,768		2,617		711
Salmon, canned.....	do.							825		500			
Clams, canned.....	do.		13,429							916			
Goldfish.....	quintals.	3,280	5,710	5,398	5,578	8,120	10,910	17,642	16,607	15,809	9,788	11,587	974
Bait.....	do.	3,492	66	1,740	51	8,780	2,090	2,925	4,964	7,642	2,238	3,139	
Redfish.....	do.	115	40	242	884	424	300	439	727	439	475	123	
Pollock.....	do.	80	242	60	993	17	462	25	374	125			30
Cod.....	do.	205	15	59		100	30	25	50	787		250	

RECAPITULATION.—1882.

Fish.	Total home.	Total foreign.	Grand total.
Mackerel.....	44,186	37,616	
Mackerel, Boston fleet, inspected.....	83,175		163,977
Herrings, pickled.....	10,578	31,078	52,556
Herrings, frozen.....	19,040	7,651	26,691
Salmon.....	2,144	1,090	3,234
Alwives, pickled.....	1,129	9,090	10,219
Alwives, smoked.....		763	763
TROUT.....		1,645	1,645
Shad.....	25	1,245	1,271
Herring.....	359,799	4,080	708,879
Waters.....	30,551	3,066	35,617
Smelt, fish.....	11,333	197	11,530
Mackerel, canned.....	9,668	1,408	11,076
Waters, canned.....	1,014	34,822	35,836
Salmon, canned.....	1,975		1,975
Clams, canned.....		916	916
Goldfish.....	80,237	50,578	130,815
Bait.....	29,635	9,434	39,069
Redfish.....	2,288	1,981	4,269
Pollock.....	956	2,120	3,076
Cod.....	1,504	104	1,608

Large catches and stocks by the New England mackerel fleet off the United States coast—season of 1882.

Schooners.	Fresh.	Cured.	Net stock.
Edward E. Webster, Gloucester.....	<i>Barrels.</i> 3,023	<i>Barrels.</i> 2,470	\$34,329.00
Nellie N. Rowe, Gloucester.....		over	30,000.00
Carl Schurz, Gloucester.....			20,000.00
Col. J. H. French, Gloucester.....			20,000.00
Jong D. Long, Gloucester.....			18,500.00
Helen M. Crosby, Gloucester.....			18,020.00
Golden Hind, Gloucester.....			16,323.00
John S. McQuin, Gloucester.....			16,035.57
George Perkins, Gloucester.....			16,500.00
Neponset, Boston.....		2,450	15,200.00
W. D. Daisley, Boston, gross stock.....			15,500.00
Longwood, Boston, gross stock.....			11,700.00
Alice, Truro, gross stock.....			14,800.00
Fannie A. Spurling, Portland, gross stock.....	1,650	2,060	21,500.00
Elizabeth W. Smith, Portland, gross stock.....	2,025	1,777	17,560.00
Titmouse, Portland, gross stock.....	1,500	1,198	13,073.00
H. S. Rowe, Portland, gross stock.....		1,475	11,674.00
H. E. Willard, Portland, gross stock.....		1,523	14,801.10
E. K. Dresser, Portland, gross stock.....		1,008	12,318.82
Eddie Pierce, Portland, gross stock.....			23,000.00
Louis and Rosa, Boon's Bay, gross stock.....		2,240	16,025.00
Charles R. Washington, Wellsfleet, gross stock.....		1,577	13,775.31
Mertie and Delmar, South Chatham, gross stock.....		700	19,484.37
John M. Fisk, Provincetown, gross stock.....		1,253	9,541.00
Lizzie Thompson, Newburyport, gross stock.....		850	8,000.00
Maud M. Story, Rockport, gross stock.....		1,250	8,000.00
Dictator, Harwich, gross stock.....		1,000	7,000.00
Ida C. Spofford, Boston, gross stock.....		1,200	7,401.80
Willie K. Parkman, North Haven, Me.....		2,013	14,500.00
Cora E. Smith, North Haven, Me.....		1,846	13,560.00
Bartie Pierce, North Haven, Me.....		1,800	11,600.00
Sea Foam, North Haven, Me.....		1,800	11,400.00
Alice C. Fox, North Haven, Me.....		1,500	10,500.00
Oasis, North Haven, Me.....		1,500	10,400.00
Roger Williams, North Haven, Me.....		1,400	10,000.00
Lottie E. Hopkins, North Haven, Me.....		1,400	9,500.00
Eben Dale, North Haven, Me.....		1,200	9,500.00
Henry Nickerson, North Haven, Me.....		1,066	8,600.00
David Brown, Jr., North Haven, Me.....		1,200	7,000.00

Fish received by Boston dealers, 1878 to 1882.

Fish.	1878.			1879.			1880.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel.....bbles.	31,881	78,680	149,028	383,816	84,213	167,444	36,761	105,730	140,000
Mackerel, Boston fleet.....do.	32,458		149,413			54,002			54,002
Herring.....do.	22,810	42,300	65,110	20,146	30,698	56,884	26,470	33,310	59,780
Alewives.....do.	4,014	3,117	7,131	705	5,727	6,322	1,351	5,639	6,990
Salmon.....do.		3,606	3,006	145	5,258	6,015	560	2,332	2,892
Trout.....do.		203	203	1,437	1,437				
Herring, smoked.....boxes.	214,715	171,508	386,223	301,473	168,876	460,340	262,482	118,115	440,597
Bloaters, smoked.....do.	17,629		17,629	23,077		23,077	20,693		20,693
Cod.....quintals.	174,624	9,034	183,658	128,012	21,960	150,901	124,238	20,151	144,389
Hake.....do.	45,700	10,973	56,673	27,069	6,610	33,679	32,222	8,810	42,491
Haddock.....do.	9,688	1,689	11,303	0,155	92	10,077	9,172	976	11,053
Pollock.....do.	2,601	2,247	4,848	1,506	3,437	5,035	1,523	2,762	4,287
Cusk.....do.	2,917		2,917	2,050	212	2,271	1,969		4,240
Shad.....bbles.		1,192	1,192		3,042	3,042		1,975	4,017
Boneless fish.....boxes.	3,015		3,015	5,915		5,915	9,646		15,561

Mackerel.....

Mackerel, Boston fleet.....

Herring.....

Alewives.....

Salmon.....

Trout.....

Herring, smoked.....

Bloaters, smoked.....

Cod.....

Hake.....

Pollock.....

Cusk.....

Shad.....

Boneless fish.....

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Fish received by Boston dealers, 1881-1882—Continued.

Fish.	1881.			1882.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel.....bbls.	75,553	61,850	137,403	44,186	37,616	81,802
Mackerel, Boston fleet.....do.	39,669		39,669	83,175		83,175
Herring.....do.	12,420	44,966	57,386	10,578	41,878	52,456
Alwives.....do.	2,184	8,104	10,288	1,129	9,609	10,738
Salmon.....do.	960	397	1,357	2,144	1,600	3,744
Trout.....do.		1,147	1,147		1,845	1,845
Herring, smoked.....boxes.	337,830	274,592	612,422	259,700	449,080	708,780
Blotera, smoked.....do.	29,619	810	30,429	30,551	5,066	35,617
Cod.....quintals.	125,450	50,852	182,302	89,297	50,578	139,875
Hake.....do.	41,021	7,901	48,922	29,625	9,484	39,109
Haddock.....do.	5,702	1,631	7,333	2,288	1,981	4,269
Pollock.....do.	1,773	3,020	4,793	906	2,120	3,026
Cusk.....do.	1,469	88	1,557	1,501	104	1,605
Shad.....bbls.		1,152	1,152	26	2,245	2,271
Boneless fish.....boxes.	14,203	316	14,519	11,363	197	11,560

The fishing industry of the Atlantic and Pacific coasts and the Great Lakes.

Most of the following notes and all the statistics have been taken from the advance Bulletins of the U. S. Census Reports for 1880. They were collected under the superintendence of Prof. Spencer F. Baird, U. S. Commissioner of Fisheries, and Prof. G. Brown Goode, by the following special agents: For the Atlantic coast and Lakes, R. E. Earl, J. W. Collins, A. Howard Clark, Fred. Mather, N. E. Atwood, F. W. True, Ernest Ingersoll, Col. Marshall McDonald, W. A. Wilcox; for the Pacific coast, by Prof. D. S. Jordan, James G. Swan, and Dr. T. H. Bean.

THE FISHERIES OF MAINE.

It is found that, if the oyster industry be neglected, Maine ranks second only to Massachusetts in the extent and value of her sea fisheries. If the weight of the products alone is considered, the six principal species, placed in the order of their importance, are as follows:

	Pounds.
Cod.....	56,004,325
Herring.....	34,695,192
Mackerel.....	31,694,455
Hake.....	24,447,730
Haddock.....	17,728,735
Lobster.....	14,334,183

However, the money value is considered, the relative importance of the species is somewhat different. The following arrangement represents the fisheries according to their value:

Herring fishery (including the sardine industry).....	\$1,043,722
Mackerel fishery.....	659,304
Cod fishery.....	656,753
Lobster fishery.....	412,076
Hake fishery.....	278,336
Haddock fishery.....	225,395

The statistics are intended to represent the fishing interests for 1880. The first lobsters ever canned within the limits of the United States were put up in Eastport, in 1842, and, with the exception of a limited business in Boston at various times, Maine has always had a monopoly of the industry for the entire country. In 1880 none were carried outside of the State, and the table, therefore, shows the extent of the business for the United States. The entire lobster catch of Maine for the year is found to be 14,234,183 pounds, of which 4,739,898 pounds were sold fresh, and 9,494,284 pounds were put up by the 23 canneries located in different parts of the State. Several of these canneries were owned by Boston capitalists, but the great majority belonged to Portland dealers, who, in addition to their home interests, operated 17 canneries in the British Provinces. During the same season, according to the statistics furnished by them, they bought 10,588,578 pounds of live lobsters from the Provincial fishermen, from which they put up 2,195,024 cans of the various brands.

The sardine industry is peculiar to Maine. In fact, if we except the menhaden, put up in New Jersey several years ago, under the name of "shadine," and "club-fish," the industry was, up to 1880, confined exclusively to the village of Eastport. Though experiments were made in the preparation of herring as sardines as early as 1866, the business did not practically begin till 1875, since which time it has grown with remarkable rapidity. In 1880, as shown by the tables, it furnished employment to over 1,500 fishermen and factory hands, in addition to 376 fishermen belonging to New Brunswick, and the value of the products amounted to nearly \$835,000.

NEW HAMPSHIRE.

Portsmouth, the only seaport of the State, in former years was quite largely interested in the fisheries, as producer, as well as having a large domestic and export trade. Of late years, in common with many other of the oldest settlements, the business has mostly moved to neighboring ports, and is limited to supplying the near home demand for fresh fish.

MASSACHUSETTS.

From the early settlement of the State to the present time has lead all others in capital, products, and number of employes engaged in the fishing industry, 20,117 persons being actively engaged in the numerous branches; 5,000 additional are engaged in the manufacture of nets, lines, fish-boxes, cooperage, building of fishing crafts. Including the families of fishermen and others dependent on the fisheries, at least 100,000 persons are supported from this industry.

The total value of the products for 1880 were, for fish alone, \$5,054,900; shell fish, fish-oil, and guano, \$997,512; whale fishery, \$2,089,337; total, \$8,141,750.

The total weights of fish caught that year amounted to 341,935,982 pounds, exclusive of any shell fish.

The years 1881 and 1882 have been far more prosperous than the one above mentioned, and would show large gains in products as well as vessel tonnage. About 75,000,000 pounds of ice and 70,000,000 pounds of salt are annually used in the fisheries of the State.

RHODE ISLAND.

The fishing industry of this State is chiefly confined to oysters, and its menhaden oil fisheries, with less attention paid to food fish. Total value of products, \$850,915.

CONNECTICUT.

The value of the products for 1880 were as follows: Oysters, \$710,875; fertilizers, \$407,604; food fish, \$338,387; total, \$1,456,866.

THE FISHERIES OF NEW YORK.

New York takes an important part in the fisheries, coming fourth in the list of fish-producing States, with products valued at \$4,380,565. In several special branches she holds a still more prominent position. Her menhaden fisheries are more extensive than those of any other State, and in 1880 the value of the oil, scrap, and compost reached \$1,114,158, being more than half of the yield for the entire country. The value of the products of the oyster fisheries for the same period reached \$1,577,060, which is greater than that for any of the other States, except Maryland, Virginia, and New Jersey. The New York fishermen secure annually larger quantities of both hard and soft clams than those of any other State; in 1880 the amount realized from the sale of these two species was \$517,691. In the shad fisheries she ranks second on the list, the catch in 1880 reaching 2,733,600 pounds.

THE FISHERIES OF NEW JERSEY.

New Jersey produced in 1880 \$3,176,589 worth of fishery products, taking the sixth place in the list of fish-producing States. In some of the special fisheries it takes a higher rank. Its oyster products, valued at \$2,080,625, are exceeded only by those of Maryland and of Virginia. Its crab fisheries, from which the fishermen realize \$162,612, are more extensive than those of any other State, while its quahaug (hard clam) fisheries are second only to those of New York. In the menhaden fisheries it stands fifth on the list, the oil, scrap, and compost produced in 1880 being valued at \$146,286. Its river fisheries are of minor importance, the total yield being only 2,752,000 pounds, netting the fishermen \$91,435.

THE FISHERIES OF PENNSYLVANIA.

Pennsylvania, though consuming large quantities of fishery products, has no important fishing grounds within its borders. The principal business connected with the fisheries is the oyster industry, for, though no oysters are produced in the waters of the State, a large number of persons are engaged in transporting oysters from the southern beds to Philadelphia, and others make a business of receiving, shelling, and

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packing them for shipment. From this industry \$187,500 is realized by the residents of the State. The sea fishing is confined to the capture of sea-bass and other species by a fleet of eight vessels that make occasional trips to the fishing grounds off Cape Henlopen during the summer months. Shad, sturgeon, and other less important species are taken in small quantities in the Delaware and Surquehanna Rivers, and lake fish of different kinds are caught along the shores bordering Lake Erie.

THE FISHERIES OF DELAWARE.

The oyster industry, valued at \$687,725, constitutes the principal fishery business of Delaware, over two-thirds of the money realized by the fishermen being derived from the capture and sale of this species. The other fishery interests of the State are very limited, being largely confined to the capture of salt-water species in the bays and sounds along the outer shore, and to the net-fishing for shad, sturgeon, and other species in Delaware River and its numerous tributaries.

THE FISHERIES OF THE SOUTHERN ATLANTIC STATES.

Probably no portion of the entire coast is so bountifully supplied with valuable food-fish and other edible species as are the sounds and bays of our southern Atlantic States. Fully three times as many persons are at present engaged in the fisheries of the district under consideration as in 1870, and the value of the products has more than quadrupled during the same period; yet the fact remains that in many localities, especially in the portion south of Albemarle Sound, North Carolina, the fisheries are practically undeveloped, and the people, as a rule, have little idea of the abundance of fish in the waters along their shores. There are many obstacles in the way of any extensive fishing business, such as the difficulty of procuring ice and the absence of proper shipping facilities; but there seems little doubt that when the people come to realize the importance of their fishing interests, these difficulties will be overcome, and many will find fishing a remunerative employment. In certain localities, as at Beaufort, Wilmington, and Charleston, a large business has sprung up, with profit to all concerned, but even here the industry is capable of much further development.

THE FISHERIES OF MARYLAND.

If the sea fisheries proper be taken as a standard, Maryland has an unimportant place among the fish-producing States; but if the oyster and river fisheries be included, in both of which she is extensively interested, she ranks second only to Massachusetts in the value of the products, and stands first on the list in the number of persons employed. Her 26,008 persons employed as fishermen and shoresmen produced in 1880 \$5,221,715 worth of fishery products, while the 20,117 persons interested in the Massachusetts fisheries realized \$8,141,750 as the result of their labors. This is easily explained by the fact that the fishing season is much shorter in the former than in the latter State, and that the fishermen are, as a rule, less energetic and less fully equipped for the work. Her oyster interests are more important than those of any other State, these, according to the report of Mr. R. H. Edmonds, furnishing employment to 23,402 persons, with 1,450 vessels and 1,825 boats, the value of the products amounting to \$4,730,476. With so extensive a river system, it is natural to suppose that her freshwater fisheries would be of peculiar importance, and such is indeed the case, for more shad are taken by her fishermen than by those of any other State, while she stands second only to North Carolina in the extent and value of her alewife (called herring) fisheries.

THE FISHERIES OF VIRGINIA.

Virginia comes seventh on the list of fish-producing States, the oyster, menhaden, and shad fisheries being the three branches in which her citizens are most extensively interested. In the first-named fishery she ranks second only to Maryland, having 16,315 persons employed, with products valued at \$2,218,376. Her menhaden fisheries are of recent origin, but they have developed with remarkable rapidity. In 1880 the fleet numbered 102 sail, and the oil, scrap, and compost produced sold for \$303,829, \$2,213,800 pounds of menhaden being utilized in this way. The river fisheries are also important, furnishing employment to 2,641 persons, and over 3,000,000 pounds of shad and nearly 7,000,000 pounds of alewives (locally known as herring), with many other river species, were taken, the whole having a value of \$272,828.

THE FISHERIES OF NORTH CAROLINA.

The large rivers and brackish sounds of North Carolina are visited annually by immense numbers of shad and alewives (commonly called herring), and in spring and early summer the fishing is extensive in many portions of the State. The principal fisheries, however, are near the junction of the Roanoke and Chowan Rivers, at the head of Albemarle Sound, and in the Neuse and the Tar Rivers. In the alewife fisheries the State ranks first on the list, with 15,520,000 pounds, netting the fishermen \$142,784. The quantity of shad taken in 1880 was 3,221,263 pounds, being a little be-

low the Maryland catch, but the price realized is so much greater that the value of the catch is more than double that for the Maryland fishery.¹ Its sea fisheries, when compared with those of the more northern States, are of little importance, though in the bays and sounds between Beaufort and Wilmington many follow fishing for a livelihood and secure annually large quantities of the various species. The mullet fisheries of North Carolina are second only to those of Florida, the catch in 1880 amounting to 3,368,000 pounds, valued at \$80,500.

THE FISHERIES OF SOUTH CAROLINA.

South Carolina comes twentieth in the list of fish-producing States, with 1,005 fishermen and products valued at \$212,482. She is, however, noted for her shrimp fisheries, these being more extensive than those of any other State, and nearly as important as those of all other States combined. In 1880 her fishermen secured 18,000 bushels, valued at \$37,500. The principal fisheries are about Charleston, where several hundred negroes, with an occasional Spaniard, are engaged in fishing with hand-lines from vessels and small boats to supply the city with whiting, blackfish, and other species. A limited fishery occurs at Georgetown, and in the sounds about Beaufort, from which points a few fish are shipped to the interior cities. Beyond the places mentioned no sea fishery of importance occurs, though there is more or less fishing for local supply along all portions of the coast. Four hundred thousand pounds of alewives (locally known as herring), 207,600 pounds of shad, and 261,250 pounds of sturgeon, with considerable quantities of other species, were taken by the river fishermen, the largest fisheries being in the Edisto River and in the tributaries of Winyah Bay.

THE FISHERIES OF GEORGIA.

The sea fisheries of Georgia are as yet almost wholly undeveloped, and the State comes, next to Eastern Florida, lowest on the list of the Atlantic-bordering States. Immense numbers of edible fishes of various kinds gather in the numerous sounds and bays along the outer shore, but comparatively few are taken, and the people are largely dependent upon the fishermen of Western Florida for their supply. In 1880 the value of all sea products, exclusive of oysters, was only \$19,225. The oysters taken were valued at \$35,000, making a total value of the sea products \$54,225. The river fisheries are more fully developed, and the Savannah, Ogeechee, and Altamaha yield considerable quantities of fresh-water and anadromous species. The principal fish taken are shad and sturgeon. Of the former 252,000 pounds, and of the latter 354,000 pounds, were caught in 1880.

THE FISHERIES OF EASTERN FLORIDA.

The fisheries of Eastern Florida are so different from those of the Gulf coast that it has been thought desirable to treat the two regions separately. In the statistical tables given the figures refer only to the fisheries of the sounds and rivers tributary to the Atlantic. If the entire State be considered, Florida takes the fifteenth place on the list of fish-producing States, having, in 1880, 2,480 fishermen, with products valued at \$636,378. Her principal fisheries are at Key West, where a fleet of 21 vessels is employed in the capture of groupers and red snappers for the Havana market. The sponge fisheries of the United States are confined exclusively to the west coast of Florida, where, according to Mr. Silas Stearns, special agent in charge of the fisheries of the Gulf States, 100 sail of vessels are engaged in the business, the value of the sponges taken in 1880 amounting to \$200,750. The mullet fisheries also are of peculiar importance, the catch of the Gulf coast, according to Mr. Stearns, being four times that of Eastern Florida. The catch for the entire State in 1880 reached 3,494,333 pounds, valued at \$123,508, this quantity representing nearly half of the mullet taken in the United States. Along the Atlantic coast the fishing is chiefly with hook and-line or cast-nets for local supply, the only commercial fishery of importance being in the Indian River, where 88,250 pounds of green turtle, valued at \$6,000, were taken, of which the greater part was shipped to Northern markets. The snail fisheries of the Saint John's, though of recent origin, are quite extensive, 251,700 pounds, worth \$20,136, being taken in 1880.

Of the 297,539,167 pounds of fishery products taken in the Southern Atlantic States fully two-fifths, 124,231,240 pounds, are oyster meats, an allowance of 7 pounds being made for each bushel of shell oysters. Of the remainder, 92,194,800 pounds are menhaden, 32,184,372 pounds are alewives (commonly called herring), and 10,878,940 pounds are shad. These are the only species that are taken in quantities exceeding 5,000,000 pounds. Five other species, namely, the mullet, crab, bluefish, perch, and striped bass, are taken in quantities exceeding 2,000,000 pounds, while the catch for nine others ranges between 1,000,000 and 2,000,000.

¹ This is owing to the fact that most of the shad are marketed before the fishing in the more northern waters becomes extensive.—M. McDONALD.

PACIFIC COAST FISHERIES.

The fisheries of this coast are yearly receiving more attention and increasing in commercial value. At present they are chiefly confined to the salmon catch of California and Oregon, the seal fishery of Alaska, with considerable and increasing attention to the cod and halibut fishery. The total value of the products in 1880 amounted to \$7,202,730; this included seals, oils, and other sea products. By the canning of 43,379,542 pounds of salmon, the value was increased \$2,345,547, making the total commercial value of the fishing products \$9,548,277; pounds of fish products, 181,548,920. Of the 16,745 persons employed, 7,910 were Eskimos, Aleuts, and Indians, and about 4,000 Chinese.

FISHERIES OF THE GREAT LAKES.

These fisheries are of much importance and value, abounding in a great variety of food-fish, the total catch of 1880 amounting to 68,742,000 pounds—whitefish leading with 21,463,000 pounds, over half of which came from Lake Michigan; herring came next, with 15,356,300 pounds, three-fourths of which were from Lake Erie; sturgeon, 7,012,100 pounds; trout, 6,804,600 pounds; numerous other varieties of less amount from all of the great lakes, making the grand total above given.

Fishing industry of the United States on the Atlantic and Pacific coasts and Great Lakes

[Compiled from the United States Census Bulletin, by W. A. Wilcox.]

States.	Number of vessels.	Tonnage.	Number of boats.	Number of fish- men.	No. of curers, pack- ers, fillets, and factory hands.	Total number of persons engaged.	Pounds of fishery products taken.	Total value of fish- ery products.	Total capital in- vested.
Fisheries of the Pacific coast:									
Maine.....	606	17,632.65	5,920	8,110	2,961	11,071	202,048,449	\$3,614,178	\$3,375,994
New Hampshire.....	23	1,019.05	211	370	38	414	10,400,294	176,684	269,465
Massachusetts.....	1,007	81,080.49	6,749	17,165	2,952	20,117	348,210,983	8,141,750	14,334,450
Rhode Island.....	92	2,502.77	734	1,602	708	2,310	88,043,978	880,915	696,678
Connecticut.....	291	9,215.95	1,173	2,585	546	3,131	83,509,367	1,456,866	1,421,020
New York.....	213	5,170.04	1,725	3,578	351	3,929	333,523,178	4,089,665	1,706,840
New Jersey.....	39	659.32	3,265	4,389	142	4,481	65,151,486	3,176,589	456,684
Pennsylvania.....	8	270.99	8	1	1	101	2,933,000	320,050	23,440
Delaware.....	.....	.....	530	936	.....	936	11,918,203	967,693	83,906
Maryland.....	1,450	43,500.60	2,825	15,873	10,135	26,008	95,712,576	5,231,715	6,342,443
Virginia.....	1,446	15,578.83	6,618	16,651	2,813	18,464	158,874,609	3,124,444	1,914,119
North Carolina.....	95	1,457.90	2,714	4,729	545	5,274	32,249,488	845,695	506,561
South Carolina.....	22	337.52	501	964	41	1,005	6,143,250	212,482	60,275
Georgia.....	1	12.00	358	809	90	899	2,272,500	119,093	78,770
Eastern Florida.....	.....	.....	815	348	20	868	2,286,750	78,408	49,554
Total.....	5,293	178,446.71	36,655	77,560	21,342	98,908	1,443,284,090	32,748,029	31,110,100
Atlantic coast fisheries:									
California.....	46	.....	853	2,031	1,005	3,036	27,077,920	2,040,334	759,675
Oregon.....	.....	.....	1,300	2,705	4,040	6,835	40,110,000	2,781,024	1,131,350
Washington Territory.....	.....	.....	834	729	15	744	5,707,000	171,372	30,358
Alaska.....	.....	.....	3,000	6,000	130	6,130	108,654,000	2,210,000	827,000
Total.....	53	.....	5,547	11,555	5,190	16,745	181,548,920	7,202,730	2,748,283
Fisheries of the great lakes:									
Lake Superior.....	155	.....	.....	414	.....	414	3,816,625	118,370	81,380
Lake Michigan.....	642	.....	.....	1,578	.....	1,578	23,141,875	698,400	551,135
Lake Huron and Saint Clair.....	154	.....	.....	979	.....	976	11,536,200	293,550	155,010
Lake Erie.....	538	.....	.....	1,470	.....	1,470	26,607,300	412,880	503,500
Lake Ontario.....	167	.....	.....	612	.....	612	3,640,000	136,700	54,050
Total.....	1,656	.....	.....	5,050	.....	5,050	68,742,000	1,652,000	1,345,075
Grand total.....	7,002	178,446.71	36,202	94,171	26,532	120,708	1,663,875,019	41,603,659	35,204,537

NOTE.—Lake boats and steam-tugs are included with vessels. No tonnage given for Pacific coast or Lake fisheries.

Table showing, by States, the quantity of each of the more important food-fishes and other aquatic species taken, and the total production of the fisheries of the Middle States.

Name of species.	Total by species.	New York.	New Jersey.	Pennayl. vania.	Delaware.
Total by States.....	Pounds. 419,525,882	Pounds. 393,523,173	Pounds. 5,151,486	Pounds. 2,033,000	Pounds. 11,018,203
Alowives, <i>Clupea vernalis</i> , Mitch., and <i>C. astivalis</i> , Mitch.....	4,146,700	250,000	1,500,000	.....	2,396,700
Black drum, <i>Pogonias chromis</i> , Lacep.....	212,500	50,000	25,000	.....	137,500
Bluefish, <i>Pomatomus saltatrix</i> (Linn.), Gill.....	6,710,800	3,000,000	3,035,000	30,000	45,800
Bonito, <i>Sarda pelamys</i> (Linn.), Cuv.....	580,000	500,000	80,000	.....	.....
Butter-fish, <i>Poronotus triacanthus</i> (Peck), Gill.....	700,000	500,000	200,000	.....	.....
Catfish, <i>Amiurus</i> , sp., and <i>Ictalurus</i> , sp.....	498,200	50,000	135,000	117,000	196,200
Cod, <i>Gadus morrhua</i> , Linn.....	5,247,000	3,580,000	1,667,000	.....	.....
Clams (soft), <i>Mya arenaria</i> , Linn.....	4,008,030	3,407,750	600,280	.....	.....
Clams (quahogs), <i>Venus mercenaria</i> , Linn.....	5,938,064	2,705,840	3,132,280	.....	5,544
Crabs, <i>Callinectes hastatus</i> , Ordway.....	3,179,834	1,624,583	1,470,300	.....	84,951
Croakers, <i>Microgogon undulatus</i> (Linn.), C. and V.....	80,000	35,000	20,000	.....	25,000
Eels, <i>anguilla vulgaris</i> , Turton.....	2,036,300	1,861,300	551,000	.....	124,000
Flounders, <i>Paralichthys</i> and other genera.....	1,091,500	1,000,000	75,000	.....	16,500
Hallibut, <i>Hippoglossus vulgaris</i> , Fleming.....	100,000	100,000	.....	.....	.....
Mackerel, <i>Scomber scombrus</i> , Linn.....	750,000	750,000	.....	.....	.....
Lobsters, <i>Homarus americanus</i> , Edwards.....	291,950	135,000	156,800	.....	150
Menhaden, <i>Brevoortia tyrannus</i> (Lat.), Goode.....	318,588,700	1283,931,200	329,134,600	428,000	322,900
Mixed fresh-water fish.....	3,888,050	2,726,300	200,000	.....	533,750
Mixed salt-water fish.....	2,419,128	1,534,000	484,226	.....	90
Moon-fish or handied porgy, <i>Chaetodipterus faber</i> (Brouss), J. and G.....	100,000	110,000	50,000	.....	.....
Mullet, <i>Mugil albula</i> , Linn., and <i>M. brasiliensis</i> , Ag.....	60,000	1,000	5,000	.....	54,700
Oysters, <i>Ostrea virginiana</i> , Lister.....	23,328,100	7,303,160	13,825,000	.....	2,100,000
Perch, <i>Perca fluviatilis</i> , Linn., and <i>Morone americana</i> (Gmel.), Gill.....	1,711,500	545,000	630,000	60,000	476,500
Scup, <i>Stenotomus argyrops</i> (Linn.), Gill.....	1,550,000	1,500,000	50,000	.....	.....
Sea-bass, <i>Centropomus atrarius</i> (Linn.), Barn.....	1,461,200	750,000	100,000	550,000	1,200
Shad, <i>Clupea sapidissima</i> (Wilson), Jor.....	5,267,200	2,733,600	884,000	350,600	1,030,000
Shoephead, <i>Archosargus probatocephalus</i> (Walb.), Gill.....	685,900	400,000	275,000	5,000	5,900
Smelt, <i>Osmerus mordax</i> (Mitch.), Gill.....	205,000	200,000	5,000	.....	.....
Spanish mackerel, <i>Scomberomorus maculatum</i> (Mitch.), J. and G.....	215,000	25,000	200,000	.....	.....
Spot or Lafavette fish, <i>Leiostomus xanthurus</i> (Mitch.), De Kay.....	1,079,100	200,000	230,000	.....	649,100
Squeteague, <i>Cynoscion regalis</i> (Bl.), Gill.....	11,063,500	4,000,000	4,430,000	15,000	2,618,500
Striped bass, <i>Morone saxatilis</i> (Schn.), Gill.....	1,528,300	705,000	442,000	43,400	247,900
Sturgeon, <i>Acipenser sturio</i> , Linn.....	1,114,000	144,000	300,000	150,000	570,000
Tautog, <i>Tautoga onitis</i> (Linn.), Gunther.....	635,000	500,000	130,000	.....	5,000
Terrapin, <i>Malaclemmys palustris</i> , Gmel.....	41,508	1,800	9,000	.....	30,708
Tom-cod, <i>Microgadus tomcodus</i> (Walb.), Gill.....	205,000	200,000	5,000	.....	.....
Trout, <i>Salvelinus namaycush</i> (Penn.), Gill and Jor.....	569,700	569,700	.....	.....	.....
Turtle (various salt and fresh water species).....	15,300	.....	.....	.....	15,300
Whitefish, <i>Coregonus clupeaformis</i> (Mitch.), Milner.....	2,149,000	1,174,000	.....	975,000	.....
Whiting or king-fish, <i>Menticirrhus nebulosus</i> (Mitch.), Gill.....	58,500	40,000	15,000	.....	2,500

¹ Including 40,000 pounds salted for food.² Including 70,000 pounds salted for food.³ Including 23,000 pounds for food.⁴ Including 550,000 pounds of refuse fish for fertilizers.

Table showing, by States, the quantities of each of the more important food-fishes and other species taken, and the total yield of the fisheries of the Southern Atlantic States.

Pennsyl- vania.	Delaware.	Name of species.	Total by species.	Maryland	Virginia.	North Carolina.	South Carolina.	Georgia.	Eastern Florida.
Pounds. 2,933,000	Pounds. 11,918,203		Pounds. 297,539,167	Pounds. 95,712,570	Pounds. 158,874,609	Pounds. 32,249,488	Pounds. 6,143,250	Pounds. 2,272,500	Pounds. 2,280,750
		Total by States							
	2,306,700	Alewives, <i>Clupea vernalis</i> , Mitch. and <i>C. aestivalis</i> , Mitch.	32,184,372	9,203,959	6,925,413	15,520,000	400,000	125,000	10,000
	137,500	Black bass, <i>Micropterus salo- moides</i> (Lac.), Henshall.	375,000		130,000	175,000	10,000	15,000	45,000
30,000	45,800	Black drum, <i>Pogonias chromis</i> , Lacep.	641,000	75,000	60,000	150,000	300,000	20,000	36,000
		Bluefish, <i>Pomatomus saltatrix</i> (Linn.), Gill.	2,386,417	10,000	1,546,417	600,000	200,000	5,000	25,000
		Catfish, <i>Amiurus</i> , sp., and <i>Ichthyurus</i> , sp.	1,443,000	420,000	500,000	300,000	25,000	180,000	18,000
117,000	190,300	Charleston porgies, <i>Pagellus</i> , sp.	375,000			50,000	325,000		
		Clams (quahaugs or little necks), <i>Venus mercenaria</i> , Linn.	1790,220	40,000	363,820	309,630	48,000	24,000	4,800
	5,544	Crisps, <i>Callinectes hastatus</i> , Ord- way.	3,366,267	1,166,607	2,139,200	11,200	42,000	7,200	
	54,951	Cravalle, <i>Carangus</i> (several species)	12,000				10,000		2,000
	25,000	Croakers, <i>Micropterus undula- tus</i> (Linn.), C. and V.	1,056,000	20,000	450,000	350,000	210,000	6,000	20,000
	124,000	Eels, <i>Anguilla vulgaris</i> , Turton	211,000	15,000	125,000	50,000	11,000	4,000	6,000
	10,500	Flounders, <i>Paralichthys</i> and other genera.	141,000	5,000	40,000	20,000	60,000	10,000	6,000
		Green turtle, <i>Chelonia mydas</i> , Schw.	96,250			6,000	2,000		488,250
	150	Grouper, <i>Epinephelus</i> (several species)	3,000				2,000	1,000	
	552,900	Grunts and pig-fish, <i>Hemulon</i> (several species)	542,000	3,000	100,000	400,000	35,000		5,000
428,000	535,750	Menhaden, <i>Brevoortia tyrannus</i> (Lac.), Goode.	92,194,800	3,203,000	88,213,800	50,000	15,000	5,000	8,000
	90	Mixed fresh-water fish	1,457,933	778,518	343,140	39,025	14,000	125,500	257,750
		Mixed salt-water fish	3,350,130	163,000	185,139	2,061,500	587,500	63,000	280,000
	54,700	Moon-fish or banded porgy, <i>Chotodipterus faber</i> (Brouss.), J. and G.	221,000	5,000	180,000	30,000	5,000		1,000
	2,100,000	Mullet, <i>Mugil albula</i> , Linn., and <i>M. brasiliensis</i> , Ag.	4,424,000	30,000	25,000	3,368,000	232,000	106,000	663,000
60,000	476,500	Oysters, <i>Ostrea virginiana</i> , Lin- ter.	124,231,240	74,200,000	47,861,240	1,190,000	350,000	490,000	140,000
		Pompano, <i>Trachinotus carolin- us</i> (Linn.), Gill.	36,500		8,000	25,000	3,500		
550,000	1,200	Perch, <i>Perca fluviatilis</i> , Linn., and <i>Perca americana</i> (Gmelin), Gill.	2,345,600	890,000	745,000	430,000	100,000	115,000	65,000
350,800	1,050,000	Red drum, <i>Sciaenops ocellatus</i> (Linn.), Gill.	524,000	10,000	40,000	175,000	35,000	10,000	54,000
5,000	5,900	Salter's choice, <i>Lagodon rhom- beoides</i> (Linn.), Hol.	140,000	2,000	10,000	70,000	40,000	3,000	15,000
		Strip, <i>Stenotomus argyrops</i> (Linn.), Gill.	70,000			20,000	50,000		
	649,100	Sea-bass, <i>Centropomus atrarius</i> (Linn.), Barn.	552,000	5,000	50,000	125,000	375,000	2,000	25,000
15,000	2,618,500	Shad, <i>Alosa sapidissima</i> (Will- son), Storer.	10,878,042	3,774,420	3,171,953	3,231,263	207,000	232,000	251,700
43,400	247,900	Sheepshead, <i>Archosargus pro- tophthalmus</i> (Walb.), Gill.	660,000	12,000	508,600	80,000	28,000	12,000	25,000
150,000	570,000	Strimp, <i>Pencus retiferus</i> (Linn.), Edwards.	4820,750			63,000	630,000	56,000	71,750
	5,000	Spanish mackerel, <i>Scombero- morus maculatus</i> (Mitch.), J. and G.	1,639,163	18,000	1,609,663	10,000	1,000		500
		Spot, <i>Leiostomus xanthurus</i> (Mitch.), De Kay.	1,420,000	20,000	700,000	520,000	160,000	5,000	15,000
		Spotted sea trout, <i>Cynoscion</i> <i>maculatus</i> (Mitch.), Gill.	1,004,000	5,000	369,000	950,600	180,000	90,000	100,000
	15,300	Wetmore, <i>Cynoscion regalis</i> (Bl.), Gill.	1,074,000	60,000	1,107,000	170,000	200,000	32,000	15,000
973,000		Ward-fish and butter-fish, <i>Pe- romachus tricaanthus</i> (Peck), Gill.	310,000	1,000	115,000	200,000			

* 10 pounds of meat to a bushel of clams.

* 2 crabs to the pound.

* 100 in number.

* 1,000 in number.

* Figured at 85 pounds to the bushel.

Table showing, by States, the quantities of each of the more important food-fishes and other aquatic species taken, &c.—Continued.

Name of species.	Total by species.	Maryland	Virginia	North Carolina	South Carolina	Georgia	Eastern Florida
<i>Striped bass, <i>Morone saxatilis</i> (Schn.), Gill.</i>	Pounds. 2,252,000	Pounds. 700,000	Pounds. 625,000	Pounds. 770,000	Pounds. 20,000	Pounds. 120,000	Pounds. 17,000
<i>Sturgeon, <i>Acipenser sturio</i>, Linn.</i>	1,610,708	144,000	411,558	438,900	1261,250	1334,000	2,000
<i>Terrapin, <i>Malaclemys palustris</i>, Gmel.</i>	384,800	30,000	163,000	123,000	23,400	19,800	3,000
<i>Turtle (various salt and fresh water species).</i>	50,000			30,000	20,000		
<i>Whiting and king-fish, <i>Menticirrhus alburnus</i> (Linn.), Gill., and <i>M. littoralis</i> (Hol.), Gill.</i>	1,188,000	3,000	175,000	150,000	835,000	15,000	10,000

¹ Including 38,250 pounds of caviare, worth \$2,358.

² Including 42,000 pounds of caviare, worth \$2,940.

³ 34 pounds each.

⁴ 200 in number.

NINTH ANNUAL REPORT OF THE BOSTON FISH BUREAU, JANUARY, 1884.

REPORT.

OFFICE OF BOSTON FISH BUREAU,
Boston, January, 1884.

Our last annual report mentioned the year 1882 as having been a successful and prosperous one to those engaged in the fishing business as producers or dealers. With the opening of the present year a good demand and satisfactory prices continued until the large catch of the previous year was exhausted, leaving the market in a good condition for the anticipated catch. With considerable addition of new vessels and better equipped fleet, and in a better financial condition than for several years, a prosperous season, with a large catch, was predicted.

Our report of large stocks and catches on page 15 will show that the expectations have, in a measure, been realized.

The catch of codfish by the Grand Bank fleet was the largest for years, the fleet returning with full fares, without loss of life, and only slight damage by storms.

The mackerel catch, in quantity or quality, has been only fairly satisfactory. A much reduced catch has met with an active demand, at prices higher than for the two previous years, which has largely compensated those engaged for the decrease in the catch; and many large stocks have been made, a few of which we have recorded.

The year closes with a sad record of losses of life and property. Numerous and severe gales on the Grand Banks of Newfoundland, Georges Banks, Massachusetts Bay, also on the Western lakes and in the Chesapeake Bay, have all added to the long list of disasters and loss of life to the fishing fleets of the United States. In the severe gale from August 26 to the 30th on the Grand Banks a number of vessels, with 75 men, were lost from the French fleet and vessels of the Provinces. The New England fleet escaped with small losses. October 30, a severe storm in Massachusetts Bay caused the loss of 8 men, and in property of 30 seines, numerous seine boats and dories, with other damage amounting to \$55,000, all belonging to the mackerel fleet. The storm in November proved the most disastrous, and were mostly confined to the George Bank fleet from Gloucester, the total losses for the year being as follows:

Ports.	Vessels.	Men.
Gloucester	16	
Newburyport	1	
Georgetown, Me.	1	
Pemaquid, Me.	1	
Portland, Me.	1	
Provincetown	2	
Boston	2	
Total	24	

nt food-fishes and other

South Carolina	Geo. Fla.	Eastern Florida.
Pounds.	Pounds.	Pounds.
20,000	120,000	17,000
1261,250	334,000	3,000
23,400	19,800	3,000
420,000		
835,000	15,000	10,000

3 1/2 pounds each.
200 in number.

The losses of life include 54 from dories, most of which were lost in the fog, many of them no doubt dying from starvation, when, with the expense of a few dollars for providing each dory with water and sealed cans of food, many lives and untold suffering might have been prevented. The Cape Ann Advertiser of July 13, in regard to the subject, says: "These kind of losses are becoming as familiar as a twice-told tale, and attract far too little attention. Forty-two men, in all, went astray in a fog in May and June, a dozen of whom are known to have been lost, and most of the others suffering all the pangs of death for many hours. Is it not time that some better scheme was devised for communication between the men at the trawls and their vessel and for supplying the necessities of the men while lost in the fogs?" As in the case of passenger vessels, a little legislation may be beneficial and save many lives. The large loss of life and property that is almost sure to follow winter fishing on Georges Banks also calls up the question, Should it not be discontinued during the inclement season of the year?

The number of vessels from each port will be found on pages 17 and 19. These represent vessels only engaged in the salt-fish trade. Boston and several other ports having large fleets engaged in supplying the country with fresh fish—of them we have no statistics, either men, vessels, or catch. During the past year Massachusetts has added 37 sail to the mackerel fishery, 25 to the cod fishery; Maine, 14 to the former and 8 to the latter; total, 87 new vessels to the New England fleets.

NEW HAMPSHIRE.

For the first time in our reports this State does not appear. Her single port, that for so many years was largely interested in the fisheries, is now only represented in the fresh-fish trade, in which quite a business is carried on.

THE FISHING INDUSTRY.

Of late years not only this country but most foreign countries are paying increased attention to this industry. This will be noticed through the press and numerous publications, as well as the numerous exhibitions or fish fairs. The Dutch appear to have started the movement of fish fairs by holding one at Amsterdam in 1861. This was followed by others, as follows: Bergen, Norway, 1865; Arcachon and Boulogne, France, 1866; Hague, 1867; Gothenburg, 1867; Havre, 1868; Naples, 1871; London, 1878; Berlin, 1880; Norwich, England, 1881; London, 1883. These fairs have no doubt been of much value to the industry. The United States has been able to represent at the Berlin and late fair at London, through the management of the United States Fish Commission, receiving a large share of the honors, a large number of which came to exhibitors from this city; our dealers also receiving numerous prizes at Aalborg, Denmark, the past season. We trust the day is not far remote when we shall have a world's fish fair in this country, and Boston is the place for it.

CENSUS FISHING REPORT.

In our report of last year we gave nearly a full report from advance bulletins. As it was not complete, we reproduce a complete report of the fishing industry of the United States in 1880. The report was taken under direction of the United States Fish Commission, and is by far the most complete and reliable report of the fisheries ever made by the Government.

Mackerel.—Of the various branches of the fisheries this always receives the most attention. Our chart will be found of interest, as showing at a glance the great fluctuations in the catch and quality. The very small amount shown at the commencement is of historic interest when we recall those years as being unsafe to fish off our shores during a foreign war. The Massachusetts catch the past season amounted to 168,811 barrels against 258,382 barrels in 1882, a large decrease of 89,571 barrels. The southern fleet, numbering 129 sail, as usual of late years, started early, sailing March 12, landing the first catch in New York March 31. The early catch was followed with fair success; mostly being landed fresh accounts for the small amount of cured fish reported as taken south. The fish were found to be abundant and of mixed sizes. As the season advanced the fleet worked off the New England shores, fewer fish constantly being seen. The fishermen, being of the opinion that a large body of mackerel were off this coast but did not show themselves, were not willing to leave the favored grounds of the past few years. About 50 sail went to North Bay in July, returning with poor reports and few fish. Later in the season, the catch not improving and more favorable reports having been received from North Bay, quite a fleet once more went there, returning with fine fares of fish of a fair quality and size. The total number of United States vessels fishing in North Bay during the season was 63, with a catch of 28,666 barrels. The catch off the New England shores amounted to

N FISH BUREAU,
Boston, January, 1884.

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as follows:

	Vessels.	Men.
	16	
	1	
	1	
	1	
	1	
	2	
	2	
	24	

185,019 barrels; the southern catch, 13,000; total catch of salted mackerel by the New England fleet 226,685; a decrease of 152,178 barrels from that of the previous year. The schooner *Edward E. Webster*, Capt. Solomon Jacobs, as for several years, is once more "high line," with the following fine record: Sailed from Gloucester March 15; hauled up November 20; during which time, with a crew of 17 men, caught 2,160 barrels of mackerel that were salted, and 400,000 mackerel were sold fresh, realizing gross \$27,440, or net \$25,700, the crew sharing \$709.75 each. During the season three trips were made to North Bay and 1,100 barrels of the catch taken there. Captain Jacobs adds to his report: "It is my opinion the body of large mackerel will be in North Bay in 1884 and the small fish off this shore." The catch of the Prince Edward Island fishermen is estimated as 10 per cent. over that of the previous year, with a slight improvement in quality. The Nova Scotia catch also shows an increase. Of the provincial catch, 75,226 barrels came to this market, against 37,616 in 1882.

Ground fish, in which we include cod, hake, haddock, cusk, and pollock, show a large gain over that of 1882, which also showed a gain of 123,877 quintals over that of 1881, the increase being largely of codfish from the Grand Banks. The catch of all kinds of ground fish off the New England shore has been light most of the season. The Grand Bank fleet returned from short voyages with full fares, some of them the largest ever known. A general depression in trade, lower prices of provisions, the revolution in Hayti, restricting the large foreign demand from that island, with a largely increased catch, have all had a tendency to depress the market, which shows the large decline from \$5.50 to \$6 of one year ago to \$3.50 and \$4 a quintal at the present time. The total catch of cured fish by the New England fleets amounted to 903,283 quintals of codfish and 156,215 quintals of hake and other cheap grades, against 663,564 of cod and 235,340 of low grades in 1882. The total catch this season is 1,059,498 quintals; gain over 1882, 160,594 quintals.

Pickled herring.—The domestic receipts show a falling off from last year, the shore-catch having been less than the average. This market has at nearly all times been well supplied from the catch of the Provinces, and the receipts have been the largest of which we have any record. Not for many years, if ever, has the market been as well supplied with Labrador herring as at the present. While the size is not as large as the Northeast shore herring, the quality is much superior. The present price is only about half that of the past few years. This fact is of importance to dealers and consumers, especially when the decreased catch and very small amount of mackerel is taken into consideration.

Box herring show a large decrease in receipts, and prices have been much higher than in 1882; a reduced catch and increased amount packed as American sardines account for the short supply during a large part of the year. The fall and winter catch has been fully an average one. Prices are again very low and the supply ample.

Alewives.—Receipts vary but little from 1882. A slight gain in both domestic and foreign.

Salmon.—During most of the year the supply was moderate and prices ruled high. This season's catch has been larger and prices are again lower.

Canned fish.—The canning of fish to an extensive amount dates back only a few years, yet, contrary to general expectation, the demand steadily increases, the amount packed in New England the past year having only been limited by the catch. Owing to the small and poor quality of the mackerel, factories have been obliged to shut down or pack other than fish products much of the time. Canned goods from the Boston factories received many honors at the recent exhibit at London, and, through that, numerous orders from Australia and other remote countries. The American-packed sardines grow in favor yearly, judging from the amount packed. The 18 factories at Eastport, Me., packed the past season 200,000 cases of 100 boxes each, two-thirds of them being packed in oil, one-third in mustard and spices. Three thousand barrels of Russian sardines were also packed. These factories alone gave employment to 1,200 men and women and 800 boys and girls, and some 500 fishermen to supply them with fish.

Of varieties of fish products are without special notice, the market having been able to fill orders for all salt-water products, dry, pickled, smoked, canned, or fresh, at nearly all times during the past year; also supplying the producers with salt, cooperage, hooks, lines, nets, oil-clothing, and all necessary outfit. Of fishing-nets, everything needed, from those large and strong enough for porpoises and sharks to the fine linen thread used in the shad fisheries, are manufactured in this city, supplying all parts of the country.

The near termination of the Washington ten-year fishing treaty with Great Britain is of importance, expiring July 1, 1885. The coming year practically closes any benefits either country may receive through it. The table on page 25 will be found of interest as showing the amount of fish yearly imported the past ten years. We trust some mutually satisfactory arrangement to all interested may be provided ere the termination of the treaty, that the harmonious relations of the past ten years may not be

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W. A. WILCOX,
Secretary.

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Fish.	July.		August.		September.		October.		November.		December.	
	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.
Mackerel.....barrels..	3,814	1,508	6,303	10,870	2,907	13,644	6,087	10,450	2,400	7,328	1,495	11,177
Mackerel, Boston fleet, inspected.....barrels.												
Herrings:												
Pickled.....do..		6,741	443	8,571	439	9,123	4,909	28,013	1,555	10,279	819	8,335
Frozen.....do..											731	339
Salmon.....do..		140		678	80	228	80	761	80	523	480	695
Alewives:												
Pickled.....do..	332	3,009		1,520		632		110				
Smoked.....do..												
Trout.....do..												
Shad.....do..												1,578
Herrings, smoked, boxes	27,966	28,500	29,502	10,825	70,678	31,261	48,027	14,853	22,804	30,265	4,018	11,500
Bloaters, smoked.....do..												
Boneless fish.....do..	1,217		2,043		3,775		4,028		13,026	1,579	1,917	
Mackerel, canned.....do..	1,464		4,018		1,978		4,840		2,183		151	
Lobsters, canned.....do..												
Codfish.....quintals.	8,723	3,192	7,183	9,879	6,597	13,498	12,538	13,090	8,193	15,178	2,651	
Hake.....do..	607		9,205	40	3,823	379	4,078		161	9,376	1,070	606
Haddock.....do..	101	81		184	80	80	363	371	1,036	90		47
Pollock.....do..	208	6	81	110	40	250		327	487			
Cusk.....do..	32		100						434	50	60	

RECAPITULATION.

Fish.	1888.		
	Home total.	Foreign total.	Grand total.
Mackerel.....barrels..	29,803		149,438
Mackerel, Boston fleet, inspected.....do..	44,431	75,226	
Herrings:			
Pickled.....do..	9,129	93,779	83,779
Frozen.....do..	7,467	8,821	15,780
Salmon.....do..	1,200	3,216	4,416
Alewives:			
Pickled.....do..	2,125	10,650	12,775
Smoked.....do..	13	578	591
Trout.....do..		1,884	1,884
Shad.....do..	50	543	593
Herrings, smoked.....boxes..	234,040	233,547	467,587
Bloaters, smoked.....do..	24,944	3,196	28,140
Boneless fish.....do..	20,068	1,586	21,654
Mackerel, canned.....do..	13,725	538	14,263
Lobsters, canned.....do..			
Codfish.....quintals..	104,182	59,367	163,549
Hake.....do..	24,669	2,075	26,744
Haddock.....do..	1,962	1,017	2,979
Pollock.....do..	1,841	2,108	3,949
Cusk.....do..	636	50	686

Fish received by Boston dealers, 1870-1883.

November.	December.
Home ports.	Foreign ports.
Home ports.	Foreign ports.
2,490	7,328
1,555	10,270
80	523
22,604	30,255
13,020	1,579
2,183	174
3,785	174
13,090	8,183
0,376	1,076
1,030	90
487	400
434	50

Fish.	1870.			1880.			1881.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel.....barrels..	33,816	84,213	167,444	36,761	105,730	193,498	73,659	61,850	304,929
Mackerel, Boston fleet, barrels.....	49,413	30,698	50,844	54,002	29,310	55,802	12,425	44,006	56,096
Herrings.....do.....	54,146	8,737	6,522	1,351	5,682	7,033	2,184	8,104	10,288
Salmon.....do.....	786	5,868	6,613	560	2,332	2,892	986	1,977	2,977
Trout.....do.....	1,437	1,437	1,437	604	604	604	1,147	1,147	1,147
Herring, smoked.....boxes..	291,473	168,876	460,349	262,482	118,115	443,597	387,630	274,592	612,413
Salmon, smoked.....do.....	23,077	23,077	23,077	20,600	29,603	29,619	919	36,428	36,428
Cod.....quintals..	128,912	21,040	150,901	124,338	80,151	163,489	125,460	50,352	182,322
Hake.....do.....	27,080	6,010	33,079	32,222	8,419	41,032	41,021	7,001	48,022
Haddock.....do.....	9,155	923	10,077	9,172	976	10,148	5,792	1,031	7,430
Pollock.....do.....	1,588	3,437	5,065	1,523	2,792	4,285	1,773	3,029	4,798
Cook.....do.....	2,039	212	2,271	1,362	187	1,549	1,409	88	1,597
Shad.....barrels..	3,042	3,042	3,042	1,975	1,975	1,975	1,152	1,152	1,152
Boneless fish.....boxes..	5,915	5,915	5,915	9,646	54	9,700	14,223	816	14,696

Fish.	1882.			1883.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel.....barrels..	44,186	37,616	164,077	130,802	75,734	148,409
Mackerel, Boston fleet.....do.....	85,178	10,578	41,978	52,556	2,129	54,650
Herrings.....do.....	1,120	9,680	10,828	2,125	10,650	12,775
Salmon.....do.....	2,144	1,690	3,834	1,306	5,216	4,416
Trout.....do.....	1,845	1,845	1,845	1,584	1,584	1,584
Herring, smoked.....boxes..	258,738	449,080	708,870	234,040	233,547	467,587
Salmon, smoked.....do.....	30,541	5,068	35,617	24,944	3,196	28,140
Cod.....quintals..	89,297	50,578	139,875	104,182	53,967	163,549
Hake.....do.....	29,623	9,434	39,059	24,609	2,075	26,744
Haddock.....do.....	3,288	1,081	4,269	1,969	1,077	3,030
Pollock.....do.....	956	2,120	3,076	1,341	1,108	2,449
Cook.....do.....	1,594	104	1,698	626	50	676
Shad.....barrels..	26	1,245	1,271	50	548	598
Boneless fish.....boxes..	11,833	197	11,580	20,068	1,997	21,624

S. Ex. 113—57

Report of some of the "high liners" of the New England mackerel and codfish fleets, season 1883.

MACKEREL VESSELS.

Schooners.	Fresh.	Pickled.	Stock.
	Barrels.	Barrels.	
Edward E. Webster, Gloucester	800	2,160	\$25,700 00
Nellie N. Rowe, Gloucester			124,700 00
Volunteer			12,000 00
Wm. M. Gaffney, Gloucester			112,000 00
Leona			115,000 00
Abbie M. Deering, Portland, Me.	1,005	1,200	10,892 00
Fannie A. Spurling, Portland, Me.	900	909	13,215 00
Elsie M. Smith, Portland, Me.		994	10,261 00
Elizabeth W. Smith, Portland, Me.	600	1,044	9,376 00
Ellen W. Sawyer, Portland, Me.			9,000 00
Neponset, Boston		1,000	111,500 00
C. H. Kelley, Boston		1,200	8,152 00
M. B. Tower, Boston		906	7,200 00
Mertie & Delmar, South Chatham			14,200 00
Willie Irving, South Chatham			10,400 00
Alice, Provincetown			112,000 00
Hattie D. Linnell, Provincetown			110,200 00
A. E. Herrick, Swan's Island, Me.	500	1,240	12,380 00
Maud M. Storey, Rockport			9,000 00
Mary E. Whorf, Wellfleet			8,100 00
Lottie Hopkins, North Haven, Me.		1,060	8,500 00
H. D. Perkins, North Haven, Me.		702	6,200 00
Roger Williams, North Haven, Me.		610	6,000 00
Amy Wixon, North Haven, Me.		840	7,000 00
Alice Fox, North Haven, Me.		800	6,500 00
Sea Foam, North Haven, Me.		1,050	7,200 00
Willie Parkman, North Haven, Me.		900	7,500 00
Oasis, North Haven, Me.		890	8,000 00
F. H. Smith, North Haven, Me.		1,040	7,700 00
Maud S., North Haven, Me.		950	8,200 00
Eben Dale, North Haven, Me.		720	7,200 00
Louie & Rosie, Booth Bay, Me.			12,554 50
Cynosure, Booth Bay, Me.		600	8,000 00

Net.

Gross.

CODFISH VESSELS.

Schooner.	One fare.	Schooner.	One fare.
	Quintals.		Quintals.
Lissie W. Matheson, Provincetown	4,300	Edith McIntire, Provincetown	3,000
Willie McKay, Provincetown	4,100	Carrie W. Clark, Provincetown	2,800
Leon Swift, Provincetown	3,300	Willie Swift, Provincetown	2,800
John A. Matheson, Provincetown	3,300	Mary Matheson, Provincetown	2,400
Laurence A. McKensie, Provincetown	3,300	William Matheson, Provincetown	2,300
L. A. Grout, Provincetown	3,800	J. W. Bentley, Provincetown	2,400
Lizzie Colby, Provincetown	3,200	H. M. Simmons, Provincetown	2,000
Jennie T. Matheson, Provincetown	3,000	N. E. Symonds, Bucksport Me.	2,900

Amount of inspected barrels New England mackerel, packed at home ports and southern catch, as reported to the Boston Fish Bureau, 1883.

Ports.	North-east shore fleet.	North Bay fleet.	Southern fleet.	Total number of sail.	Total number of crew.	North-east shore catch.	North Bay catch.	Southern catch.	Total catch.
Massachusetts:						<i>Inspected barrels.</i>	<i>Inspected barrels.</i>	<i>Inspected barrels.</i>	<i>Inspected barrels.</i>
Boston ¹	12	2	8	22	308	20,431	10,000	5,000	44,431
Cohasset	5			5	71	2,400			2,400
Chatham	1			1	11	150			150
South Chatham	1		5	6	80	2,000		1,150	4,050
Dennisport			5	5	70	625		250	975
Gloucester ¹	35	51	80	166	2,324	71,550	16,566	5,000	92,816
Newburyport ¹	1		1	2	28				
Provincetown ¹	14		1	15	240	8,930		250	9,180
Plymouth ¹	2			2	28				
Rockport ¹	6	1		7	75				
Wellfleet	37			37	550	14,800			14,800
Total.	114	54	100	268	7,385	130,705	26,266	11,750	168,811
Maine:									
Booth Bay	4		10	14	212	7,484		480	7,964
Bristol ¹	1			1	15				
Camden ¹	2			2	29				
Deer Isle ¹	1			1	26				
Eastport ¹	2	1	11	14	186			270	290
North Haven ¹	32	6		38	600	45,000	2,400		47,400
Portland ¹	5			5	74	1,740			1,740
Southport	1	2	6	9	128			300	300
Swan's Island ¹	1		1	2	27			200	200
Vinal Haven ¹									
Total.	52	9	20	81	1,349	54,224	2,400	1,250	57,874
Total catch of New England fleet:									
1883	166	63	120	358	5,134	185,019	28,666	13,000	326,685
1882	228		119	342	5,083	329,674		49,189	378,863
1881	205		93	298	4,258	364,253		27,404	391,657

¹ Includes vessels from other ports.

² Vessels packed out part or all of catch at other ports.

Shore fleet mentioned only fished off the Northeast shore. The Bay and Southern fleet also fished there part of the season.

Porter.	One fare.
Provincetown	8,000
Provincetown	2,800
Provincetown	2,800
Provincetown	2,400
Provincetown	2,500
Provincetown	2,400
Provincetown	2,600
Provincetown	2,900

New England fleet catch of cod and other ground fish landed at home ports, as reported to the Boston Fish Bureau, 1883.

Ports.	Vessels on Grand and Western Banks.	Vessels on North-east shore and Georges Bank.	Total fleet.	Total crews.	Catch on Grand and Western Banks.	Catch on North-east shore and Georges Bank.	Total number of quintals.
Massachusetts:							
Boston ¹	2	2	2	80	.....	.....	.....
Dorchester ²	6	6	12	164	8,000	1,800	9,800
Chatham ³	1	7	8	197	1,000	6,000	7,000
South ⁴ Watham ⁵	1	2	3	80	.....	.....	.....
South Dartmouth.....	1	1	2	41	1,250	.....	1,250
Fairhaven ⁶	1	1	2	41	1,000	1,300	2,300
Gloucester ⁷	182	137	280	3,488	325,000	252,900	578,900
South Harwich.....	1	1	2	13	.....	.....	.....
Kingston.....	2	2	4	26	2,800	.....	2,800
Marblehead.....	1	1	2	13	1,200	.....	1,200
Provincetown ⁸	74	.....	74	1,110	141,050	.....	141,050
Plymouth.....	3	3	6	25	3,000	.....	3,000
Rockport ⁹	3	7	10	135	800	5,500	6,300
Total	248	160	408	5,216	487,700	267,900	755,600
Maine:							
Booth Bay.....	7	30	37	220	8,800	9,800	18,600
Bucksport.....	7	.....	7	91	10,900	.....	10,900
Basco Harbor ¹.....	.....	27	27	180	.....	5,739	5,739
Bremen.....	2	6	8	92	2,875	1,415	4,290
Bristol ²	2	3	5	40	1,500	485	1,985
Cranberry Isle.....	.....	5	5	50	.....	4,000	4,000
Cape Porpoise ³.....	.....	17	17	107	.....	5,600	5,600
Deer Isle ⁴.....	.....	5	5	35	.....	300	300
Rustport ⁵	3	20	23	560	3,500	19,000	22,500
Ellsworth.....	3	.....	3	44	3,500	.....	3,500
Friendship.....	.....	30	30	150	.....	8,560	8,560
Georgetown ⁶.....	.....	6	6	42	.....	3,148	3,148
Harpwell.....	.....	11	11	90	.....	9,480	9,480
North Haven ⁷	3	7	10	128	1,100	6,150	7,250
Lamoine.....	6	.....	6	98	11,600	.....	11,600
Orland.....	9	.....	9	120	10,840	.....	10,840
Portland ⁸	23	60	83	700	20,000	102,000	122,000
Pemaquid ⁹.....	.....	1	1	130	.....	7,000	7,000
Port Clyde ¹⁰.....	.....	2	2	90	.....	1,275	1,275
Swan's Island ¹¹.....	.....	5	5	72	.....	1,700	1,700
Southwest Harbor.....	.....	9	9	70	.....	5,000	5,000
Southport ¹²	7	.....	7	128	10,800	1,750	12,550
Sedgwick.....	4	.....	4	50	5,000	.....	5,000
Vinal Haven ¹³	1	28	29	148	500	21,300	21,800
Winter Harbor.....	.....	.....	.....	50	.....	1,750	1,750
Total	76	262	338	3,385	90,975	215,295	306,270
Total New England fleet:							
1883.....	322	421	743	8,601	578,735	482,963	1,061,698
1882.....	315	377	692	7,719	474,078	424,826	898,904
1881.....	268	336	604	6,402	355,640	419,387	775,027

¹ Landed fares at other ports.

² Part of the catch landed at other ports.

³ Catch of small boats and number of fishermen included.

⁴ Receipts of vessels from other ports included.

⁵ Halibut vessels included; catch, 7,905,193 pounds.

⁶ Includes north bay fleet, 14 sail and 11,000 quintals.

the ports, as reported to

Price of mackerel in Massachusetts, per barrel, of each grade of pickled mackerel in the first week of September from 1830 to 1883.

[Compiled from the report of U. S. Commissioner of Fish and Fisheries.]

Catch on North-east shore and Georges Bank.	Catch on Western Banks.	Total number of quintals.
8,000	1,600	9,600
1,000	6,000	7,000
1,250		1,250
1,000	1,200	2,200
325,600	252,900	578,500
1,300		1,300
2,660		2,660
1,200		1,200
141,050		141,050
3,000		3,000
800	5,500	6,300
487,700	267,900	755,600
8,800	9,800	18,600
16,900		16,900
2,875	1,415	4,290
1,500	483	1,983
	4,002	4,002
	5,600	5,600
	300	300
8,500	10,000	18,500
3,500		3,500
	8,500	8,500
	8,148	8,148
	9,400	9,400
1,100	6,150	7,250
11,800		11,800
10,840		10,840
20,000	102,000	122,000
	7,000	7,000
	1,275	1,275
	1,700	1,700
	5,000	5,000
10,800	1,750	12,550
5,000		5,000
560	21,300	21,860
	1,750	1,750
90,975	515,000	605,975
578,795	483,903	1,062,698
474,078	424,826	898,904
355,640	410,287	765,927

cluded.
is.
tals.

Year.	No. 1.	No. 2.	No. 3.	Year.	No. 1.	No. 2.	No. 3.
1830.....	\$5 00	\$4 50	\$2 62	1850.....	\$16 00	\$8 50	\$5 00
1831.....	5 75	4 75	2 62	1861.....	8 50	4 50	2 75
1832.....	5 00	4 00	2 75	1862.....	8 25	6 00	4 50
1833.....	5 72	4 72	2 85	1863.....	14 00	9 25	6 50
1834.....	5 72	4 72	3 35	1864.....	30 00	20 00	.....
1835.....	7 00	6 00	4 00	1865.....	22 00	15 00	9 75
1836.....	9 00	8 00	5 00	1866.....	22 75	13 25	.....
1837.....	7 75	6 50	4 12	1867.....	17 00	12 25	7 50
1838.....	11 00	9 25	5 50	1868.....	17 00	13 00	.....
1839.....	12 50	10 50	7 00	1869.....	29 00	11 50	.....
1840.....	12 75	10 50	5 50	1870, bay.....	21 50	11 00	.....
1841.....	12 00	10 00	6 00	1870, shore.....	23 00	9 75	.....
1842.....	9 00	6 00	4 00	1871, bay.....	10 50	7 50	5 50
1843.....	10 12	8 12	6 00	1871, shore.....	11 25	7 25	6 25
1844.....	9 50	7 50	5 50	1872, bay.....	11 39	9 25	7 00
1845.....	13 00	10 50	6 87	1872, shore.....	14 50	9 50	.....
1846.....	9 12	6 25	3 87	1873 bay.....	14 75	12 25	9 00
1847.....	12 75	8 25	4 25	1873, shore.....	20 00	12 25	.....
1848.....	9 00	6 00	3 37	1874, bay.....	15 00	8 00	.....
1849.....	12 00	7 00	3 50	1874, shore.....	13 25	9 00	7 00
1850.....	10 12	8 12	5 00	1875, bay.....	14 00	11 00	.....
1851.....	10 00	6 50	5 12	1875, shore.....	16 25	10 25	7 50
1852.....	9 00	7 00	5 75	1876.....	15 00	8 75	5 50
1853.....	11 50	8 50	7 50	1877.....	16 50	12 50	8 00
1854.....	15 00	12 25	5 00	1878.....	18 00	8 00	5 00
1855.....	19 00	11 00	6 25	1879.....	16 00	5 00	3 00
1856.....	13 00	8 00	6 00	1880.....	14 00	7 00	4 00
1857.....	15 00	12 50	8 50	1881.....	14 00	6 00	4 00
1858.....	15 50	12 50	8 50	1882.....	18 00	11 00	8 00
1859.....	14 50	12 50	8 50	1883.....	20 00	14 00	10 50

Tonnage of vessels of the United States employed in the whale, cod, and mackerel fisheries from 1860 to 1882, inclusive.

[From the figures contained in the annual report of the Register of the Treasury.]

Year ending June 30—	Whale fisheries.	Cod fisheries.	Mackerel fisheries.	Total.
	Tons.	Tons.	Tons.	Tons.
1860.....	106,841	136,653	26,111	869,605
1861.....	145,794	137,846	54,795	838,875
1862.....	117,714	153,601	80,596	331,911
1863.....	90,326	117,290	51,019	297,537
1864.....	96,145	108,743	55,480	254,386
1865.....	90,516	65,185	41,000	196,910
1866.....	105,170	51,642	46,000	203,401
1867.....	52,384	44,567	31,498	128,449
1868.....	71,343	83,887		155,230
1869.....	70,202	62,704		132,906
1870.....	67,954	91,400		159,414
1871.....	61,400	92,805		154,355
1872.....	51,608	97,545		140,155
1873.....	44,755	109,519		154,274
1874.....	39,108	78,290		117,398
1875.....	38,229	80,207		118,436
1876.....	39,116	57,802		126,918
1877.....	40,593	91,085		131,678
1878.....	39,700	86,547		126,247
1879.....	40,028	79,885		119,913
1880.....	38,406	77,538		115,946
1881.....	38,531	70,137		114,668
1882.....	32,802	77,863		110,665

¹ The tonnage for 1863 and 1866 is partly by new measurement and partly by old.

Note.—The mackerel licenses have not been issued separately since 1867, when a general fishing license was provided to replace cod and mackerel fisheries.

The following table has been prepared from the annual report of the Bureau of Statistics of the Treasury Department, and are based on the custom-house returns.

Attention may be called to the importation duty free of 109,737,420 pounds of fresh fish, valued at \$3,242,566. Nearly all of this came from Canada under the treaty of Washington.

The exports have constantly increased in quantity and value, due, doubtless, in some degree to the successful participation of the United States in the International Fishery Exhibitions held in Europe.

Statistics of the imports of fish and fish-oil for ten years ending June 30, 1882.

[By Charles W. Smiley, U. S. Fish Commissioner.]

	1873.	1874.	1875.	1876.	1877.	1878.
FREE OF DUTY.						
Fish, not of American fisheries:						
Fresh, of all kinds..... pounds..	8, 636, 279	9, 587, 505	15, 308, 709	10, 723, 216	7, 735, 961	9, 681, 829
Herring, pickled..... barrels.....	51, 423	70, 763	87, 554	63, 280	58, 022	58, 022
Mackerel, pickled..... do.....	89, 503	77, 479	76, 531	43, 066	102, 148	102, 148
Oils:						
Whale or fish, not of American fisheries..... gallons.....		165, 448	277, 739	103, 184	138, 708	311, 001
DUTIABLE.						
Fish, not of American fisheries:						
Herrings..... barrels.....	68, 662	31, 128	21, 581	17, 268	11, 873	15, 542
Mackerel..... do.....	90, 889	190	50	7	14	6
Oils:						
Whale and fish, not of American fisheries..... gallons.....	223, 612	226, 528	115, 064	102, 883	51, 882	85, 500

	1879.	1880.	1881.	1882.	Total.
FREE OF DUTY.					
Fish, not of American fisheries:					
Fresh, of all kinds..... pounds..	8, 432, 835	10, 761, 307	12, 075, 761	15, 863, 849	109, 737, 420
Herring, pickled..... barrels.....	55, 732	46, 723	64, 811	76, 136	574, 584
Mackerel, pickled..... do.....	101, 420	112, 468	120, 288	58, 279	761, 183
Oils:					
Whale or fish, not of American fisheries..... gallons.....	182, 625	407, 416	568, 060	337, 076	2, 491, 647
DUTIABLE.					
Fish, not of American fisheries:					
Herring..... barrels.....	18, 150	26, 168	30, 987	36, 061	281, 250
Mackerel..... do.....	2		9	164	91, 349
Oils:					
Whale and fish, not of American fisheries..... gallons.....	67, 500	92, 810	146, 410	209, 651	1, 315, 287

Statistics of the fisheries of the United States in 1880.

[From the Compendium of the Tenth Census.]

port of the Bureau of
steam-house returns.
37,420 pounds of fresh
under the treaty of

due, doubtless, in
ates in the Interna-

g June 30, 1882.

	1877.	1878.
210	7,735,961	9,681,826
554	63,280	58,022
531	43,066	102,148
184	138,708	311,001
268	1,873	15,542
7	14	6
883	51,882	85,500
1882.	Total.	
15,893,849	106,737,420	
76,136	574,504	
58,279	781,182	
337,078	2,491,647	
36,061	281,250	
164	91,340	
209,051	1,315,287	

States and Territories.	Grand total.			Persons employed.	
	Persons employed.	Capital invested.	Value of products.	Fishermen.	Shoresmen.
	Number.			Number.	Number.
The United States.....	181,425	\$37,955,349	\$43,046,053	101,634	29,742
New England States.....	37,053	19,937,607	14,270,393	29,838	7,205
Middle States, exclusive of Great Lake fisheries.....	14,981	4,426,078	8,676,579	12,584	2,397
Southern Atlantic States.....	52,418	8,951,722	9,602,737	38,774	13,644
Gulf States.....	5,131	545,584	1,227,544	4,382	749
Pacific States and Territories.....	10,803	2,748,383	7,484,750	11,613	5,190
Great Lakes.....	5,050	1,345,975	1,784,050	4,493	557
Alabama.....	635	28,200	179,275	545	90
Alaska.....	6,130	447,000	2,661,640	0,600	130
California.....	3,094	1,139,675	1,860,714	2,089	1,005
Connecticut.....	3,131	1,421,020	1,456,866	2,585	546
Delaware.....	1,079	268,231	997,695	1,062	317
Florida.....	2,480	406,117	643,227	2,284	196
Georgia.....	899	78,770	119,993	809	90
Illinois.....	300	83,400	60,100	265	35
Indiana.....	52	29,360	32,740	45	7
Louisiana.....	1,597	93,621	392,610	1,300	297
Maine.....	11,071	3,375,994	3,614,178	8,110	2,961
Maryland.....	26,008	6,342,443	5,221,715	15,873	10,135
Massachusetts.....	20,117	14,834,450	8,141,750	17,165	2,952
Michigan.....	1,781	442,065	716,170	1,600	181
Minnesota.....	35	10,160	5,200	30	5
Mississippi.....	186	8,800	22,540	110	76
New Hampshire.....	414	260,465	176,684	376	38
New Jersey.....	6,220	1,492,202	3,170,589	5,659	561
New York.....	7,206	2,629,585	4,380,565	5,650	1,616
North Carolina.....	5,274	566,581	845,595	4,729	545
Ohio.....	1,046	473,860	518,420	925	121
Oregon.....	6,835	1,131,350	2,751,024	2,795	4,040
Pennsylvania.....	6,552	119,810	320,050	511	41
Rhode Island.....	2,310	566,678	880,915	1,602	708
South Carolina.....	1,005	66,275	212,482	904	41
Texas.....	601	42,400	128,300	491	110
Virginia.....	18,864	1,014,119	3,124,444	16,051	2,813
Washington.....	744	80,358	181,373	729	15
Wisconsin.....	800	222,640	253,100	730	70

Statistics of the fisheries of the United States in 1880—Continued.

[From the Compendium of the Tenth Census.]

States and Territories.	Apparatus and capital.					
	Vessels.			Boats.		Value of minor apparatus and outfit.
	No.	Tonnage.	Value.	No.	Value.	
The United States.	6,005	208,267.82	\$9,357,282	44,804	\$2,465,393	\$3,145,261
New England States.....	2,066	113,602.59	4,562,131	14,787	739,970	5,038,171
Middle States, exclusive of Great Lake fisheries.	1,210	23,566.03	1,382,000	8,293	546,647	674,951
Southern Atlantic States.	3,014	60,896.15	2,375,450	13,331	640,508	1,145,878
Gulf States.....	197	8,009.88	308,051	1,252	50,173	52,823
Pacific States and Territories.....	56	5,463.42	546,450	5,547	404,695	467,238
Great Lakes.....	62	1,768.57	183,206	1,594	83,400	136,200
Alabama.....	24	317.20	14,583	119	10,215	7,000
Alaska.....				3,000	60,000	7,000
California.....	49	5,246.80	535,350	853	91,485	205,840
Connecticut.....	291	9,215.95	514,050	1,173	73,585	375,535
Delaware.....	69	1,226.00	51,600	839	32,227	70,324
Florida.....	124	2,152.97	272,615	1,058	28,508	39,927
Georgia.....	1	12.00	450	353	15,425	18,445
Illinois.....	3	209.73	8,506	101	2,000	11,900
Indiana.....	1	21.90	2,500	15	1,650	20,210
Louisiana.....	49	539.69	28,821	165	4,800	18,000
Maine.....	606	17,632.65	633,542	5,920	245,624	934,598
Maryland.....	1,450	43,500.00	1,750,000	2,825	189,448	297,145
Massachusetts.....	1,054	83,232.17	3,171,189	6,749	361,738	3,528,925
Michigan.....	36	914.42	98,500	454	10,345	272,920
Minnesota.....	1	33.59	5,000	10	900	3,700
Mississippi.....				58	4,600	1,600
New Hampshire.....	23	1,019.05	51,500	211	7,780	60,385
New Jersey.....	599	10,445.90	548,900	4,065	223,963	232,339
New York.....	541	11,542.51	777,600	3,441	289,885	190,200
North Carolina.....	95	4,457.90	39,000	2,714	123,175	225,436
Ohio.....	9	359.51	38,400	487	29,890	253,795
Oregon.....				1,309	246,600	245,750
Pennsylvania.....	11	321.99	10,500	150	13,272	40,538
Rhode Island.....	92	2,562.77	191,850	734	61,245	138,733
South Carolina.....	22	337.32	15,000	501	9,799	25,985
Texas.....				167	18,000	4,400
Virginia.....	1,448	15,578.93	571,000	6,618	292,730	566,763
Washington.....	7	216.62	11,100	364	6,610	8,648
Wisconsin.....	11	220.25	26,700	319	24,975	145,165

Statistics of the fisheries of the United States in 1880—Continued.

[From the Compendium of the Tenth Census.]

Value of minor apparatus and outfits.	Other capital, including shore property.	Value of products by fisheries.						
		States and Territories.	General fisheries.	Whale fishery.	Seal fishery.	Menhaden fishery.	Oyster fishery.	Sponge fishery.
\$8, 145, 261	\$17, 987, 413	The United States.	\$22, 405, 018	\$3, 323, 043	\$2, 289, 813	\$2, 116, 787	\$13, 403, 852	\$200, 750
5, 038, 171	9, 597, 535	New England States.	10, 014, 645	2, 121, 325	111, 851	539, 722	1, 478, 900	3, 890
674, 951	1, 222, 490	Middle States, exclusive of Great Lake fisheries.	2, 882, 294			1, 261, 385	4, 532, 000	
1, 145, 878	4, 780, 886	Southern Atlantic States.	2, 217, 797	408		315, 680	7, 608, 852	
52, 823	124, 537	Gulf States.	713, 594				313, 200	200, 750
467, 238	1, 330, 000	Pacific States and Territories.	4, 793, 638	263, 150	2, 177, 062		10, 000	302, 000
736, 200	113, 175	Great Lakes.	1, 784, 050					
7, 000	6, 400	Alabama.	74, 325				44, 950	
7, 000	390, 000	Alaska.	504, 640	500	2, 008, 500			
205, 840	307, 000	California.	1, 341, 314	201, 650	15, 750			302, 000
375, 535	457, 850	Connecticut.	353, 887	32, 948	111, 851	250, 205	672, 875	
70, 324	113, 680	Delaware.	209, 020			941	687, 725	
89, 927	65, 617	Florida.	426, 527				15, 950	200, 750
18, 445	45, 450	Georgia.	84, 093				35, 000	
11, 900	61, 000	Illinois.	60, 100					
20, 210	5, 000	Indiana.	32, 740					
18, 000		Louisiana.	192, 610				200, 000	
904, 593	1, 562, 225	Maine.	3, 576, 678				37, 500	
287, 145	4, 168, 430	Maryland.	478, 388			11, 851	4, 730, 478	
3, 528, 925	7, 282, 400	Massachusetts.	5, 281, 204	2, 089, 337		61, 700	405, 550	3, 800
272, 920	60, 000	Michigan.	716, 170					
1, 700	500	Minnesota.	5, 200					
1, 600	2, 000	Mississippi.	12, 540				10, 000	
60, 385	86, 000	New Hampshire.	170, 634				8, 050	
232, 330	490, 000	New Jersey.	940, 078				2, 080, 625	
190, 200	1, 171, 800	New York.	1, 698, 357			1, 114, 158	1, 577, 050	
225, 436	118, 550	North Carolina.	785, 287	408			60, 000	
253, 705	151, 775	Ohio.	518, 430					
245, 750	638, 000	Oregon.	2, 776, 724		4, 300			
40, 536	55, 300	Pennsylvania.	132, 550				187, 500	
138, 733	204, 850	Rhode Island.	362, 212			231, 748	358, 925	
25, 065	15, 500	South Carolina.	192, 423				29, 000	
4, 400	25, 000	Texas.	81, 000				47, 800	
568, 763	480, 636	Virginia.	602, 230			303, 820	2, 218, 378	
8, 648	4, 000	Washington.	109, 960		61, 442		10, 000	
145, 165	25, 000	Wisconsin.	233, 100					

TENTH ANNUAL REPORT OF THE BOSTON FISH BUREAU, JANUARY, 1885.

REPORT.

OFFICE OF BOSTON FISH BUREAU,

Boston, January 1, 1885.

The year which has just closed has proved one of general depression in all lines of trade; and when to this is added an unprecedented yield in all food products, a low range of values has been the rule. Fish and the fish trade has proved no exception. While to the producers or fishermen and those interested with them this has been productive of greater or less losses, still the distributors or dealers may be said to have enjoyed a fairly successful season. Working generally on low values the quantities moved have been large, and business in this line has been done with a fair share of profit. Low prices have encouraged consumption, which has taken off stocks as they have been placed on the markets, and with but few exceptions stocks are well reduced and fairly in hand for the coming season.

Beginning with large and successful southern herring fisheries, we have had it followed by the most successful mackerel and codfish fisheries, as regards yield or product that have ever been recorded. While the foregoing is true as pertains to the work of our New England fishermen, and in some lines to those of Nova Scotia, the Prince Edward Island, Newfoundland, and Labrador fisheries may be considered as partial failures.

In some cases the yield has been far below an average, but in the general heavy catch or production these shortages have been more than made up.

Mackerel.—The fleet engaged in this pursuit fitted and started at the usual time, and for a time the early catch was a fairly paying one.

The quality of the early caught fish was but ordinary and the size medium and small; the general run of the mackerel taken by our New England fleet was small, not more than one-quarter, at any time, being of good size; when in connection with this is taken the fact of one of the largest catches of mackerel ever known, it is not to be wondered at that prices should soon reach a point at which the fishermen were unable to find any profit in the business for themselves or those interested with them. This run of small fish appears to have extended along the Nova Scotia shores, the only points yielding large and fat fish being Prince Edward Island and Bay fisheries. Notwithstanding the enormous yield of the fishery, prices have been well maintained and stocks are well reduced.

First sales of uninspected salt mackerel were at \$10 for large and \$4 for small per barrel, selling in June at \$2.50, \$5, and \$6.50 without barrel for small, medium, and large; July, \$3.50 to \$4 for mediums without barrel, and \$7 to \$7.50 for large; August, \$3.75 to \$5 cargo sales; September, \$3 to \$4 cargo sales; October, \$3 to \$4 cargo sales; November, 3's \$3.25, 2's \$7.12½ to \$8, 1's \$15 to \$16 in fares; December, 3's \$3.50 to \$3.75, 2's \$8.50, 1's \$15 in fares. The catch on the Nova Scotia shores and Prince Edward Island has been much smaller than that of last year; first receipts from the island were on August 2, fish of good size, selling at \$11. The general run of the fish from the island has been fair in size and they have ruled from \$8 to \$12 for uncured; \$8 to \$11.50 for No. 3's; \$10 to 14 for No. 2's; and \$13 to \$17 for No. 1's during the season. No stock has been carried over.

Nova Scotia mackerel have been more like those taken by our own fishermen, as regards size and condition; but few fat mackerel from this source; large 3's have ruled from \$6.50 to \$8.50 during the season.

Codfish.—In this article we have to note a large yield, and consequently low prices have been the rule for the season. With a yield of 1,001,303 quintals of codfish alone, it might reasonably be expected that prices should seek a level with those of other food products in which the yield has been large.

At the beginning of the year prices ranged at \$3.50 for large dry Bank and \$3 for medium; \$3.25 for large pickle-cured and \$2.50 for medium per quintal, but at the close the same grades of fish were selling at \$2.50 for large dry and \$2 for medium; \$2 for large pickle-cured and \$2 for medium per quintal, which is below the cost of production. While the yield of codfish has been so heavy, that of hake has been much below an average, and but for the low prices ruling for codfish, their value would be much enhanced; they have been ruling during the season at \$1.75 to \$2.50 per quintal.

With a small catch of hake, that of pollock has increased; these fish have ranged from \$2 to \$3 for slack salted, \$1.25 to \$1.87½ for heavy salted per quintal.

Owing to the low prices ruling, the consumption of dry fish has been largely increased.

Herring.—The early southern fisheries were fairly successful, which to a certain extent has curtailed the outlet for many of the cheaper grades of pickled herrings from this way. The catch on our shores has been comparatively a light one. Receipts of Georges Bay and Dalhousie have been about the average, while that of the large Nova Scotia shore splits has run short; the catch of Labradors has been almost a total failure, but 2,000 barrels received this year, as against upwards of 25,000 barrels a year since.

Salmon and trout.—The catch of these articles has been fully up to the average, prices have sympathized with other lines and have ruled low, showing some little improvement at the close and but little stock is being carried over. Price on salmon has ruled from \$10 to \$13 for Northern and \$11 to \$12 for California mess; \$9.50 to \$13 for trout.

Box herring.—The receipts in this line, 793,244 boxes, have been way above the average for our market. Prices have ruled low and stock has been kept well reduced.

Bloaters.—Supplies have been large, generally of good quality, ranging from 35 cents to \$1.25 per box.

Haddies.—This article of food appears to be steadily growing in favor with consumers, and the supply has been taken up readily as placed on the market, ranging from 4½ to 6 cents per pound.

Canned fish.—In this connection may be taken such goods as American sardines, an article rapidly taking its place along with mackerel, salmon, &c., as a staple with the trade.

Sardines.—Owing to the general low range of price, this article has suffered also and prices have been reduced to a point that has rendered it unprofitable for the packers, still the pack has reached upwards of 175,000 cases, mostly 1-4 oils. Price has ranged from \$4.62 to \$5.75 per case.

Canned mackerel.—In connection with this article, it is to be regretted that the packing, in past seasons, of poor goods, should have tended to curtail the demand for

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the size medium and
and fleet was small,
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ever known, it is not
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regretted that the pack-
curtail the demand for

what is one of the finest articles of canned food. The low prices now ruling, 70 to 75 cents per dozen, together with the improved quality of the goods, will reinstate it in public favor.

Canned lobsters.—The supply of this article has been light and prices have ranged from \$1.40 per dozen at the opening to \$1.85 at the close of the season.

The Washington ten-year treaty.—The Washington ten-year fishing treaty expires on July 1, 1885. We hope that some arrangement will be made by Congress if possible which will be agreeable to all parties interested and affected. The duty on imported fish products from July 1, at least until some action is taken upon same, will be as follows: mackerel 1 cent a pound; herring, pickled or salted, one-half cent per pound; salmon pickled, 1 cent per pound; other fish pickled in barrels, 1 cent per pound. Foreign caught fish imported, not in barrels or half barrels, whether fresh, smoked, dried, salted or pickled, not especially enumerated or provided for in this act, 50 cents per 100 pounds. Anchovies and sardines packed in oil or otherwise in tin boxes, measuring not more than 5 inches long, 4 inches wide, and 3½ inches deep, 10 cents per whole box; in half boxes, measuring not more than 5 inches long, 4 inches wide, and 1½ deep, 5 cents each; in quarter boxes measuring not more than 4½ inches long, 3½ inches wide, and 1½ deep, 2½ cents each; when imported in any other form, 40 per cent. ad valorem. Fish preserved in oil, except anchovies and sardines, 30 per centum ad valorem. Salmon and all other fish prepared or preserved, and prepared meats of all kinds not especially enumerated or provided for in this act, 25 per centum ad valorem. Oils, cod-liver, crude or refined seal, whale and fish oils, not elsewhere specified, 25 per cent.

It is easy for us at the close of the year to look back and see where we have made our mistakes, and miscalculated the contingencies of trade; at the same time it is well for us to study what we have been through and to lay out for the future line of action that which will enable us to avoid the mistakes of the past, and to build for the future, for ourselves and our city, a business which shall be enduring and profitable.

We can still point with pride to the fact that Boston still holds her proper place in the van, as a distributor of the enormous yield of our fisheries.

In closing our report we hereby return thanks to our many correspondents and friends for the assistance which they have so freely given us in the past and which we trust, we shall continue to receive in the future. We return the result of the year's business with our best wishes.

Fish received by Boston dealers from foreign and domestic ports, 1884.

Fish.	January.		February.		March.		April.		May.		June.	
	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.
Mackerel..... barrels..	26	2,104	824	5,048	3,964	1,313	1,695	411	1,562	250	748	8,957
Mackerel Boston fleet inspected... barrels..												
Herrings:												
Pickled..... do.....	38	655	683	998	337	1,300	166	1,675	175	40	59	3,604
Frozen..... do.....	2,281	737	2,892	2,112	4,471		850					
Salmon..... do.....					80	11		16		139		
Alewives..... do.....		408	100	198				102	414	818	622	3,080
Trout..... do.....												8
Shad..... do.....		8										
Herrings, smoked, boxes	5,836	7,844	18,396	8,329	55,535	32,300	43,637	51,450	17,745	47,943	41,435	291
Bladders, smoked... do..	4,985	200	6,024	197	7,038	400						
Boneless fish..... do..	388		1,965	113	3,132		814		479		791	
Mackerel, canned, do..												
Lobsters, canned, do..								376				723
Codfish..... quintals..	10,773	2,111	17,030	3,261	12,290	9,229	5,173	1,428	2,207	224	2,718	2,595
Hake..... do.....	765	92	300		92		820					
Haddock..... do.....		40	150		113							56
Pollock..... do.....							282	432			240	31
Cook..... do.....					148							

Fish received by Boston dealers from foreign and domestic ports, 1884—Continued.

Fish.	July.		August.		September.		October.		November.		December.	
	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.
Mackerel.....barrels..	6,554	3,372	11,637	16,128	5,545	9,330	5,737	10,833	5,541	4,611	2,830	2,972
Mackerel Boston fleet, inspected.....barrels..												
Herrings:												
Pickled.....do.....		488	86	6,319	143	6,277	4,676	10,949	1,019	0,143	321	4,645
Frozen.....do.....											485	1
Salmon.....do.....		201		612		148				43		267
Alewives.....do.....	276	744		801		218		1,053			200	1,643
Trout.....do.....								500				3 96
Shad.....do.....								230				
Herrings, smoked, boxes.....	14,820	13,098	42,564	57,085	46,228	58,136	27,293	23,480	31,415	36,042	49,435	61,470
Blotlers, smoked.....do.....							2,834	1,368	8,489	1,116	2,668	1,209
Boneless fish.....do.....	285		832		1,649		3,667		1,483	87	797	
Mackerel, canned.....do.....	174	1,800	3,815	75	3,311		5,708		200		2,904	
Lobsters, canned.....do.....		2,267	673	5,635		2,421		1,152			804	
Codfish.....quintals.....	6,614	5,250	3,429	11,323	6,444	9,000	28,267	22,906	16,731	4,806	12,569	4,168
Hake.....do.....	123		739		858	500	1,000	815	614	330	1,150	314
Haddock.....do.....	22		12	60		292	401	386	466	126	96	283
Pollock.....do.....	386		102	195		402	160	858	77	938	78	235
Cusk.....do.....			28				414	15			132	

The above includes 53 barrels smoked alewives received during April, May, and June.

RECAPITULATION.

Fish.	Home total.	Foreign total.	Grand total.
Mackerel.....barrels..	40,763	60,426	
Mackerel, Boston fleet, inspected.....do.....	72,184		179,373
Herrings:			
Pickled.....do.....	7,855	55,093	62,948
Frozen.....do.....	10,972	2,850	13,829
Salmon.....do.....	60	1,803	1,863
Alewives.....do.....	1,666	8,675	10,341
Trout.....do.....		994	994
Shad.....do.....		230	230
Herrings, smoked, boxes.....	304,276	398,968	703,244
Blotlers, smoked.....do.....	22,083	4,490	26,573
Boneless fish.....do.....	16,281	150	16,431
Mackerel, canned.....do.....	13,672	1,375	15,047
Lobsters, canned.....do.....		13,474	13,474
Codfish.....quintals.....	122,254	77,201	199,455
Hake.....do.....	7,443	2,647	10,090
Haddock.....do.....	1,290	1,342	2,632
Pollock.....do.....	1,344	3,191	4,535
Cusk.....do.....	722	15	737

AMERICAN FISHERY INTERESTS.

909

1884—Continued.

Fish received by Boston fish dealers, 1880-1884.

November.	December.
Home ports.	Foreign ports.
5,541	4,611
2,930	2,972
1,019	9,143
43	485
200	1,643
200	1,643
801	80
10,751	4,898
614	330
406	126
77	938
	132

Fish.	1880.			1881.			1882.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel.....barrels..	30,761	103,730		78,653	61,850		44,180	37,610	
Mackerel, Boston fleet, barrels	54,002		196,493	60,600		204,929	83,175		104,977
Herring.....barrels	26,492	20,310	55,802	12,420	44,906	56,908	10,578	41,978	52,556
Alwives.....do.	1,351	5,682	7,033	2,184	8,104	10,288	1,120	9,000	10,828
Salmon.....do.	500	2,332	2,832	980	1,097	2,077	2,144	1,690	3,834
Trout.....do.		608	608		1,147	1,147		1,845	1,845
Herrings, smoked, boxes.	262,482	118,115	443,597	337,830	274,692	612,412	350,799	440,080	708,879
Bloters, smoked, do.	20,603		20,610	810	30,420	30,551	5,066		35,617
Cod.....quintals.	124,338	30,151	160,489	135,450	50,852	182,302	89,297	50,578	180,875
Hake.....do.	32,222	8,810	41,032	41,021	7,901	48,922	20,625	0,434	39,059
Haddock.....do.	9,172	676	10,148	5,792	1,631	7,423	2,288	1,081	4,269
Pollock.....do.	1,523	2,762	4,285	1,773	8,020	4,793	956	2,120	3,076
Cusk.....do.	1,563	187	1,549	1,460	38	1,507	1,594	104	1,698
Shad.....barrels.		1,975	1,975		1,152	1,152	26	1,245	1,271
Boneless fish.....boxes..	9,646	54	9,700	14,293	316	14,606	11,333	197	11,530

ril, May, and June.

Home ports.	Foreign total.	Grand total.
3,763	60,426	
2,184		179,373
7,855	55,093	62,948
0,977	2,850	13,829
80	1,803	1,883
1,606	8,075	10,281
	994	994
320		320
398,968	794,344	
4,276	4,490	38,573
2,083	150	16,431
5,672	1,375	17,047
673	13,474	14,147
2,254	77,201	199,455
7,443	2,047	9,490
1,290	1,843	2,632
1,344	3,191	4,535
722	15	737

Fish.	1883.			1884.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel.....barrels..	20,859	75,220		10,763		179,373
Mackerel, Boston fleet, do.	44,431		149,459	72,184	60,426	
Herrings.....do.	9,120	8,659	93,779	7,855	55,093	62,948
Alwives.....do.	2,125	10,650	12,775	1,606	8,675	10,281
Salmon.....do.	1,200	3,216	4,416	80	1,603	1,883
Trout.....do.		1,584	1,584		994	994
Herrings, smoked, boxes.	234,019	233,547	467,587	398,968	794,344	708,244
Bloters, smoked, do.	34,944	3,196	38,140	32,083	4,490	38,573
Cod.....quintals.	104,182	39,867	163,549	122,254	77,201	199,455
Hake.....do.	24,669	2,075	26,744	7,443	5,047	12,490
Haddock.....do.	1,962	1,077	3,039	1,200	1,843	2,632
Pollock.....do.	1,841	1,108	2,449	1,344	3,191	4,535
Cusk.....do.	620	50	678	722	15	737
Shad.....barrels..	50	545	595		320	320
Boneless fish.....boxes..	20,068	1,680	21,654	16,281	150	16,431

Statement showing the number and tonnage of vessels of the United States employed in the cod and mackerel fisheries June 30, 1883.

SUMMARY.

States in which documented.	Vessels above twenty tons.		Vessels under twenty tons.		Total.	
	No.	Tons.	No.	Tons.	No.	Tons.
Maine.....	441	30,037.06	343	4,137.05	784	34,174.11
New Hampshire.....	29	5,753.10	6	79.35	35	5,832.45
Massachusetts.....	633	42,409.41	246	2,657.75	879	45,067.16
Rhode Island.....	16	934.09	93	853.61	109	1,787.70
Connecticut.....	53	2,187.00	74	866.34	127	3,053.34
New York.....	18	851.65	193	1,579.41	211	2,431.06
New Jersey.....	1	25.65	3	61.01	4	76.66
Maryland.....	34	1,222.00			34	1,222.00
Virginia.....	6	246.17	30	285.20	36	531.37
North Carolina.....	2	44.87	4	50.57	6	95.44
Florida.....	8	407.63	3	87.93	11	595.61
Alabama.....	2	66.89	4	70.43	6	137.32
California.....	2	46.33	5	47.67	7	94.00

Taken from the report of the Chief of the Bureau of Statistics on Commerce and Navigation.

Amount of inspected barrels, New England mackerel catch, packed at each port as reported to the Boston Fish Bureau, 1884.

Ports.	New England shore fleet.	North Bay fleet.	Total number of sail.	Total number of crew.	New England shore catch.	North Bay catch.	Total catch inspected barrels.	Total catch not packed barrels.
Massachusetts:								
Boston	13	8	21	396	70,984	1,200	72,184	82,394
Cohasset	3	2	5	75	1,665	258	2,123	2,358
Chatham	1	.....	1	11	150	.....	150	167
South Chatham	4	2	6	90	4,039	125	4,163	4,425
South Dartmouth	1	.....	1	14	165	.....	165	183
Fairhaven	1	.....	1	15	144	.....	144	160
Gloucester	112	58	170	2,770	155,630	15,200	170,830	180,923
Harwichport	4	2	6	93	7,083	85	7,168	7,964
Newburyport ¹	2	.....	2	24	.....	.....	.....	.....
Provincetown	11	5	16	240	17,572	500	18,072	20,000
Plymouth ¹	2	.....	2	27	.....	.....	.....	.....
Rockport ¹	6	2	8	90	60	.....	60	67
Wellsfleet	22	8	30	489	22,008	320	22,328	25,920
Total	182	87	269	4,265	280,600	17,787	307,486	341,451
Maine:								
Booth Bay	8	1	9	135	21,955	60	22,015	24,441
Camden ¹	3	1	4	42	.....	80	80	90
Deer Isle ¹	2	.....	2	32	.....	.....	.....	.....
Eastport	2	.....	2	20	500	.....	500	555
North Haven ¹	6	11	17	258	.....	.....	.....	.....
Portland	42	3	45	720	138,500	1,500	140,000	155,555
Southport	6	2	8	126	7,700	72	7,770	8,633
Swan's Island ¹ .....	.....	2	2	30	.....	.....	.....	.....
Vinal Haven ¹	2	1	3	45	85	140	225	250
Total	71	21	92	1,462	108,740	1,850	110,590	120,544

¹ Whole or part of catch landed at other ports.

Amount credited to each port is the amount packed there, regardless of catch of vessels hailing from there, which in many instances packed at other ports.

We find from a careful observation of facts that the shrinkage in packing amounts to about twenty pounds to the barrel, or 10 per cent. Inspectors and captains agree with us that this is fully enough to allow.

each port as reported

Total mackerel catch of New England fleet for five years, as reported to the Boston Fish Bureau.

North Bay catch.	Total catch inspected barrels.	Total catch on-packed barrels.
200	72,184	83,394
258	2,123	2,358
125	150	167
	4,103	4,625
	165	183
	144	160
3,290	170,929	188,823
85	7,166	7,964
500	13,072	20,060
	60	67
320	32,328	33,920
7,787	307,486	341,451
60	22,015	24,461
80	80	90
	500	555
1,500	140,000	155,555
72	7,770	8,653
140	225	250
1,850	170,590	180,544

catch of vessels hauling
amounts to about twenty
that this is fully enough to

States.	Year.	New England shore vessels.	North Bay vessels.	Total number of sail.	Total number of crew.	New England shore catch.	North Bay catch.	Total catch.
						Inspected barrels.	Inspected barrels.	Inspected barrels.
Massachusetts	1884	183	87	200	4,205	280,690	17,787	307,486
Maine	1884	71	21	92	1,462	168,740	1,850	170,590
Total		253	108	361	5,667	458,430	19,637	478,078
Massachusetts	1889	214	54	268	7,385	143,543	26,266	169,811
Maine	1889	81	9	90	1,349	55,474	2,400	57,874
Total		295	63	358	8,734	198,019	28,666	226,685
Massachusetts	1892	246	240	340	8,823	238,716	.....	258,716
Maine	1892	86	84	84	1,150	119,847	.....	119,847
New Hampshire	1892	8	8	8	104	300	.....	300
Total		342	342	342	5,089	378,863	.....	378,863
Massachusetts	1891	204	8	206	2,975	269,165	830	269,496
Maine	1891	84	84	84	1,177	110,622	140	110,762
New Hampshire	1891	8	8	8	106	5,460	.....	5,460
Total		295	8	298	4,258	391,187	470	391,657
Massachusetts	1880	207	32	239	3,498	251,169	4,817	255,986
Maine	1880	93	2	95	1,380	83,854	2,484	86,338
New Hampshire	1880	8	8	8	110	7,350	.....	7,350
Total		308	34	342	4,988	342,373	7,301	349,674

In the above the southern catch and number of vessels is included in the Shore catch.

Total catch of cod and other ground fish for five years, as reported to the Boston Fish Bureau.

States.	Year.	Vessels on Grand and Western Banks.	Vessels on Northeast Shore and Georges Banks.	Total sail.	Total crews.	Catch on Grand and Western Banks.	Catch on Northeast Shore and Georges Banks.	Total catch.
Massachusetts...	1884	229	199	428	5,377	Quintals. 394,383	Quintals. 336,130	Quintals. 730,513
Maine	1884	77	200	337	3,474	99,350	171,440	270,790
Total		306	459	765	8,751	493,733	507,570	1,001,303
Massachusetts...	1885	248	160	408	5,216	487,760	267,900	755,660
Maine	1885	76	262	338	3,385	90,975	215,063	306,038
Total		324	422	746	8,601	578,735	482,963	1,061,698
Massachusetts...	1886	240	153	393	4,804	400,272	206,915	607,187
Maine	1886	71	218	289	2,785	73,806	221,011	304,817
New Hampshire.	1886	4	6	10	130	.....	2,000	2,000
Total		315	377	692	7,719	474,078	429,926	904,004
Massachusetts...	1887	179	178	357	4,254	263,590	285,050	548,640
Maine	1887	73	143	216	1,914	72,750	139,637	212,387
New Hampshire.	1887	6	15	21	234	9,000	5,000	14,000
Total		258	336	604	6,402	345,340	429,687	775,027
Massachusetts...	1888	166	199	365	4,185	261,000	268,450	529,450
Maine	1888	83	108	189	1,737	93,590	71,980	165,570
New Hampshire.	1888	4	10	14	126	5,800	5,000	10,800
Total		253	317	568	6,048	360,390	345,430	705,820

e Boston Fish Bureau.

New England fleet catch of cod and other ground fish, landed at home ports, as reported to the Boston Fish Bureau.

Catch on Northeast Shore and Georges Banks.	Total catch.
Quintals.	Quintals.
336,130	729,513
171,440	270,790
507,570	1,001,303
267,990	733,090
215,063	306,033
482,963	1,001,088
206,915	601,187
221,011	235,717
2,000	2,000
424,826	886,996
288,050	518,690
139,637	215,387
5,000	14,000
419,387	778,027
268,450	470,090
71,936	165,576
5,000	10,000
345,436	690,426

Ports.	Vessels on Grand and Western Banks.	Vessels on Northeast Shore and Georges Banks.	Total fleet.	Total crew.	Catch on Grand and Western Banks.	Catch on Northeast Shore and Georges Banks.	Total catch.
					Quintals.	Quintals.	Quintals.
Massachusetts:							
Boston ¹	1	1	1	15			
Beverly ²	6	8	14	145	7,500	950	8,450
Chatham ³	2	4	6	95	2,000	2,200	5,200
South Chatham	3		3	30	3,000		3,000
South Dartmouth	1	1	2	10	1,250		1,250
Fairhaven ⁴	1	2	3	23	1,100	1,000	2,100
Gloucester ⁵	136	167	303	3,066	228,108	324,955	553,063
Kingston	2		2	25	2,500		2,500
Marblehead	1		1	12	1,200		1,200
Provincetown ⁶	71	14	85	1,162	140,500	1,050	141,550
Plymouth	3		3	25	2,700		2,700
Rockport ⁷	1	5	6	79	1,525	4,975	6,500
Wellfleet	1		1	18	3,000		3,000
Total.....	220	190	428	5,304	394,383	236,130	730,513
Maine:							
Bremen ⁸	2	6	8	80	3,000	800	3,800
Backport	12		12	147	15,000		15,000
Booth Bay	6	10	16	132	8,200	3,050	11,250
Bass Harbor ⁹		35	35	300		11,000	11,000
Bristol	2	3	5	40	1,600	460	2,060
Cranberry Isle		6	6	64		3,000	3,000
Calais ¹⁰				25		600	600
Cape Porpoise	1	13	14	84		590	590
Deer Isle	2	2	4	10		400	400
Eastport ¹¹	3	30	33	500	3,000	10,500	13,500
Ellsworth	3		3	42	3,800		3,800
East Booth Bay		4	4	35		700	700
Friendship ¹²		12	12	100		4,000	4,000
Georgetown ¹³		4	4	31		1,540	1,540
Hancock	1	1	2	30	2,500	350	2,850
Harpwell		11	11	85		8,500	8,500
Lubec ¹⁴	7	2	9	60		4,200	4,200
Lamoine	7		7	112	15,300		15,300
North Haven ¹⁵	3	7	10	118	3,600	4,500	8,100
New Harbor ¹⁶				50		2,000	2,000
Oriand	7	1	8	100	9,250	600	9,850
Portland	20	60	80	700	24,000	90,000	114,000
Pemaquid ¹⁷		1	1	125		5,500	5,500
Port Clyde ¹⁸		4	4	30		1,900	1,900
Swan's Island ¹⁹		5	5	50		750	750
Sedgwick	2		2	24	2,600		2,600
Southport	8		8	115	7,500	500	8,000
Southwest Harbor		8	8	90		5,500	5,500
Vinal Haven ²⁰		25	25	225		105,500	10,500
Total.....	77	200	337	3,474	99,350	171,440	270,790

¹Landed fish at Gloucester.²Includes one sail that fished off Greenland.³Catch of small boats included.⁴Includes twenty-three vessels in halibut catch; five fished off Greenland and four off Iceland.⁵Includes thirteen sail that fished in North Bay.⁶Includes one sail that fished in North Bay.⁷Catch of small shore boats included.⁸Vessels from Lubec fished in Bay of Fundy.⁹Total catch by small shore boats.

Tonnage of vessels of the United States employed in the whale, cod, and mackerel fisheries from 1860 to 1883, inclusive.

[From figures contained in the annual reports of the Register of the Treasury.]

Year ending June 30—	Whale fisheries.	Cod fisheries.	Mackerel fisheries.	Total.
	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>
1860.....	166,641	136,653	26,111	329,405
1861.....	145,734	137,846	54,705	338,285
1862.....	117,714	133,601	80,596	331,911
1863.....	99,226	117,290	51,019	267,535
1864.....	95,145	103,742	55,499	254,386
1865 ¹	90,516	65,185	41,209	196,910
1866 ¹	105,170	51,642	46,589	203,401
1867.....	52,384	44,567	31,498	128,449
1868.....	71,343	83,887		155,230
1869.....	70,292	62,704		132,996
1870.....	67,954	91,460		159,414
1871.....	61,490	92,865		154,355
1872.....	51,608	97,545		149,153
1873.....	44,756	109,519		154,274
1874.....	39,108	78,290		117,398
1875.....	38,229	86,207		118,436
1876.....	39,116	87,802		126,918
1877.....	40,593	91,085		131,678
1878.....	39,700	86,547		126,247
1879.....	40,028	79,885		119,913
1880.....	38,408	77,538		115,946
1881.....	36,861	76,137		114,998
1882.....	32,802	77,863		110,665
1883.....	32,414	95,038		127,452

¹ The tonnage for 1865 and 1866 is partly by new measurement and partly by old.

NOTE.—The mackerel licenses have not been issued separately since 1867, when a general fishing license was provided to replace cod and mackerel fisheries.

Total number of barrels of each quality of pickled mackerel inspected in Massachusetts from 1809 to 1884, and the total value of each year's inspection from 1830 to 1884.

Year.	Barrels of mackerel inspected.					Total value.
	1.	2.	3.	4.	Total.	
1800	2,274	3,078	3,472		8,825	
1810	2,540	4,770	5,242		12,552	
1811	1,368	6,023	10,009		17,401	
1812	1,000	2,154	2,726		5,881	
1813	900	1,291	1,625		3,756	
1814	80	540	703		1,339	
1815	3,225	5,456	7,377		16,059	
1816	8,694	9,264	13,010		30,969	
1817	10,406	5,207	21,688		37,302	
1818	14,410	11,102	20,775		46,348	
1819	19,614	96,521	49,976		100,111	
1820	12,455	94,414	68,374		115,641	
1821	7,404	32,109	71,505		111,009	
1822	20,685	66,681	73,578		160,294	
1823	19,804	62,047	63,154		145,006	
1824	45,246	75,221	71,183		191,650	
1825	29,640	109,640	114,904		254,384	
1826	43,499	80,534	34,657		158,740	
1827	61,357	60,835	39,612		190,304	
1828	63,235	110,606	63,422		237,324	
1829	54,184	77,098	94,665		225,977	
1830	47,868	104,569	156,025		308,463	\$1,119,470
1831	70,198	171,186	142,164		383,548	1,589,086
1832	28,679	97,219	96,553		222,452	797,795
1833	54,559	98,927	69,445		222,932	974,985
1834	80,433	93,553	78,892		252,879	1,165,842
1835	15,805	57,271	91,924		194,800	1,030,560
1836	53,665	60,558	60,187		174,410	1,268,388
1837	24,573	61,027	32,587		138,157	803,633
1838	87,068	28,588	41,184		110,740	925,002
1839	22,217	22,027	30,013		74,268	710,204
1840	19,351	11,049	20,091		50,491	473,345
1841	27,747	10,649	21,141		55,537	518,300
1842	29,363	22,406	23,684		75,543	493,979
1843	32,759	13,088	13,604		64,451	549,419
1844	28,843	22,515	35,023		86,381	634,502
1845	28,083	88,623	85,566		202,302	1,883,660
1846	44,430	70,065	65,076		179,511	1,094,585
1847	104,150	76,066	71,760		251,917	2,259,958
1848	113,093	79,979	107,058		300,130	1,853,500
1849	61,404	81,962	65,584		208,950	1,580,126
1850	88,401	44,909	67,064	21,658	242,572	1,777,517
1851	90,765	102,467	135,567	414	329,244	2,249,511
1852	84,039	67,071	44,088	2,210	198,120	1,491,923
1853	49,015	24,584	59,897	19,849	133,345	1,207,975
1854	30,595	46,242	65,133	3,378	135,348	1,313,535
1855	29,302	91,122	90,193	1,338	211,956	2,120,084
1856	69,333	76,819	47,987	178	214,312	2,064,561
1857	84,519	45,218	38,257	711	168,705	2,162,738
1858	75,347	21,229	32,332	1,992	131,602	1,720,540
1859	61,030	12,000	22,207	4,118	99,715	1,255,073
1860	70,774	122,837	50,578	3,441	225,632	2,251,067
1861	78,774	100,266	22,486	633	194,289	1,116,851
1862	81,002	78,388	100,011	562	260,864	1,597,416
1863	67,085	136,075	102,061	280	306,942	2,878,777
1864	103,383	137,746	33,212	14	274,357	5,935,525
1865	163,723	63,662	39,206	244	256,706	4,729,840
1866	150,522	80,319	44,784	269	231,696	4,324,790
1867	122,808	40,038	41,048	418	210,314	2,961,933
1868	93,091	42,232	44,077	625	180,065	2,532,151
1869	72,024	92,019	65,717	3,549	234,211	3,248,315
1870	66,040	189,422	63,019	39	318,521	3,744,197
1871	165,187	85,867	68,322	88	319,464	2,238,055
1872	71,868	54,370	55,608	115	181,966	1,948,416
1873	83,087	63,838	37,795	376	185,748	2,799,083
1874	112,971	71,442	75,966		259,379	2,637,615
1875	33,100	19,270	73,424	4,261	130,062	1,310,140
1876	30,890	96,772	93,481	4,818	225,942	1,630,306
1877	18,015	37,286	37,700	12,940	105,097	1,137,516
1878	14,094	48,170	70,175	11,785	144,226	1,034,144
1879	9,025	91,113	54,806	362	155,297	892,357
1880	20,453	104,434	99,554	10,510	243,968	1,474,132
1881	15,598	139,696	95,861	2,127	252,178	1,601,081
1882	30,045	95,121	123,786	428	253,389	2,741,445
1883	20,852	48,078	48,341	36,807	154,140	1,616,754
1884	24,101	64,839	304,366	14,000	307,486	1,853,753

Numbers of barrels inspected as above given are, with the exception of 1884, from the official returns of the inspector-general, and vary slightly from reports of the Boston Fish Bureau.

Price per barrel of each grade of pickled mackerel in Massachusetts in the first week in September, from 1830 to 1884.

Year.	No. 1.	No. 2.	No. 3.	Year.	No. 1.	No. 2.	No. 3.
1830.....	\$5 00	\$4 50	\$3 62	1861.....	\$8 50	\$4 50	\$2 75
1831.....	5 75	4 75	2 62	1862.....	8 25	6 00	4 50
1832.....	5 00	4 00	2 75	1863.....	14 00	9 25	6 50
1833.....	5 72	4 72	2 85	1864.....	50 00	29 00	.....
1834.....	5 72	4 72	3 35	1865.....	22 00	15 00	9 75
1835.....	7 00	6 00	4 00	1866.....	22 75	13 25	.....
1836.....	9 00	8 00	5 00	1867.....	17 00	12 25	7 50
1837.....	7 75	6 50	4 12	1868.....	17 00	13 00	.....
1838.....	11 00	9 25	5 50	1869.....	23 00	11 50	.....
1839.....	12 50	10 50	7 00	1870, bay.....	21 50	11 00	.....
1840.....	12 75	10 50	5 50	1870, shore.....	23 00	9 75	.....
1841.....	12 00	10 00	6 00	1871, bay.....	10 50	7 50	6 50
1842.....	9 00	6 00	4 00	1871, shore.....	11 25	7 25	6 25
1843.....	10 12	8 12	6 00	1872, bay.....	11 50	9 25	7 00
1844.....	9 50	7 50	5 50	1872, shore.....	14 50	9 50	.....
1845.....	13 00	10 50	6 87	1873, bay.....	14 75	12 25	9 00
1846.....	9 12	6 25	3 87	1873, shore.....	20 00	12 25	.....
1847.....	12 75	8 25	4 25	1874, bay.....	15 00	8 00	7 00
1848.....	9 00	6 00	3 37	1874, shore.....	13 25	9 00	7 00
1849.....	12 00	7 00	3 50	1875, bay.....	14 00	11 00	.....
1850.....	10 12	8 12	5 00	1875, shore.....	16 25	10 25	7 50
1851.....	10 00	9 50	5 12	1876.....	15 00	6 75	5 50
1852.....	9 00	7 00	5 75	1877.....	16 50	12 50	8 00
1853.....	11 50	9 50	7 50	1878.....	18 00	8 00	5 00
1854.....	15 00	12 25	5 00	1879.....	16 00	5 00	3 00
1855.....	19 00	11 00	6 25	1880.....	14 00	7 00	4 00
1856.....	13 00	8 00	6 00	1881.....	14 00	6 00	4 00
1857.....	15 00	12 50	8 50	1882.....	18 00	11 00	8 00
1858.....	15 50	12 50	8 50	1883.....	20 00	14 00	10 50
1859.....	14 50	12 50	8 50	1884.....	14 00	10 00	8 50
1860.....	16 00	8 50	5 00				

AMERICAN FISHERY INTERESTS.

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the first week in Sep.

No. 1.	No. 2.	No. 3.
\$8.50	\$4.50	\$2.75
8.25	6.00	4.50
14.00	9.25	6.50
20.00	20.00	9.75
22.75	15.00	7.50
17.00	12.25	7.50
17.00	13.00	7.50
23.00	11.50	7.50
21.50	11.00	7.50
10.50	7.50	5.50
11.25	7.25	6.25
11.50	9.25	7.00
14.50	9.50	7.00
14.75	12.25	9.00
20.00	12.25	9.00
15.00	8.00	7.00
13.25	9.00	7.00
14.00	11.00	7.00
16.25	10.25	7.50
15.00	6.75	5.50
16.50	12.50	8.00
18.00	8.00	8.00
16.00	7.00	4.00
14.00	6.00	4.00
18.00	11.00	8.00
20.00	14.00	10.50
14.00	10.00	3.50

Lowest and highest prices paid by Boston fish dealers, from 1852 to 1884, inclusive.

Years.	Mackerel.					Herring.	Alewives.	Codfish.	Salmon.	Trout.
	No. 3.	No. 2, large.	No. 2.	No. 1.	Unclassified.					
1852	\$5.12 1/2 to 7.00	\$5.75 to 7.62 1/2	\$7.50 to 10.00	\$10.25 to 13.50	.....	\$3.00 to 3.87 1/2	\$3.50 to 3.62 1/2	\$3.00 to 3.87 1/2	\$14.25 to 14.50	\$9.00 to 9.25
1853	7.00	7.62 1/2	10.00	12.00	.....	3.87 1/2	3.62 1/2	4.25	15.00	9.00
1854	4.87 1/2	7.75	13.50	15.50	17.12 1/2	4.00	4.00	3.00	18.50	8.75
1855	8.25	6.12 1/2	7.25	12.00	19.00	2.75	3.25	4.00	15.25	9.00
1856	4.00	5.75	7.00	8.00	17.00	3.37 1/2	3.62 1/2	4.00	16.50	11.75
1857	6.75	7.00	11.50	9.50	23.00	4.00	4.00	2.87 1/2	20.50	12.00
1858	6.50	10.25	9.50	12.25	19.00	3.00	3.00	3.00	19.00	11.00
1859	6.25	8.75	11.00	10.50	18.50	2.50	3.00	2.75	20.00	9.00
1860	5.25	6.50	12.75	16.25	14.87 1/2	1.75	3.00	3.50	17.00	10.00
1861	2.62 1/2	5.00	8.00	14.00	18.50	2.12 1/2	3.75	3.75	16.25	9.75
1862	2.00	4.25	5.00	7.00	14.00	1.50	4.00	2.00	13.50	9.50
1863	4.62 1/2	5.50	8.00	10.00	15.50	1.62 1/2	2.75	3.25	8.00	9.25
1864	6.00	8.50	13.00	11.00	22.00	3.00	4.50	3.50	14.50	10.50
1865	9.00	12.00	15.00	12.00	22.00	3.12 1/2	4.50	5.00	16.00	10.00
1866	13.50	13.50	16.00	17.00	27.00	3.12 1/2	5.00	5.00	26.50	10.50
1867	18.25	13.75	11.50	16.25	21.00	4.00	3.25	5.12 1/2	23.50	12.50
1868	10.00	12.00	11.00	18.50	28.00	4.12 1/2	4.00	5.00	23.00	13.00
1869	5.87 1/2	10.50	11.00	17.00	28.00	3.75	4.00	5.00	23.50	13.00
1870	5.00	10.00	12.50	18.00	27.00	4.00	4.25	5.00	23.00	13.00
1871	5.00	9.00	13.00	18.00	22.00	3.12 1/2	4.00	5.00	27.00	14.50
1872	5.75	8.00	15.00	15.50	22.00	2.87 1/2	5.25	5.00	16.00	15.00
1873	5.50	8.25	11.25	12.00	17.00	2.87 1/2	4.00	5.00	23.00	7.75
1874	5.50	7.50	12.50	14.50	18.00	2.50	4.25	5.00	16.00	7.50
1875	5.00	6.75	17.00	8.50	18.00	2.50	3.00	3.75	13.00	8.75
1876	5.50	7.00	6.00	10.00	10.00	3.12 1/2	3.75	5.00	16.00	12.50
1877	2.00	5.00	9.00	10.00	20.00	1.62 1/2	4.75	5.00	16.00	10.50
1878	2.00	3.00	8.00	10.00	20.00	2.25	3.00	3.00	13.00	9.50
1879	4.00	4.00	3.00	15.00	15.00	2.25	3.75	2.50	10.00	8.00
1880	7.00	4.00	4.00	18.00	18.00	2.50	3.00	3.00	17.50	5.00
1881	3.50	4.00	4.00	7.25	20.50	1.50	3.00	3.50	21.00	6.00
1882	6.00	9.50	7.50	11.50	10.00	2.00	2.00	3.50	23.00	11.00
1883	7.00	14.00	11.50	13.00	11.00	2.64	3.75	3.75	25.00	8.00
1884	2.50	6.00	5.00	11.50	9.00	1.25	3.00	4.00	18.00	10.00

Table showing the fluctuations of several of the leading varieties of fish at Boston, for five years, commencing January, 1880.

Month and year.	Large pickled Bank cod.	Large dry Bank cod.	Large pickled Shore cod.	Large dry Shore cod.	Large French cod.	Large Newfoundland cod.	Small pickled Bank cod.	Hake.
	Per quintal.	Per quintal.	Per quintal.	Per quintal.	Per quintal.	Per quintal.	Per quintal.	Per quintal.
January, 1880	\$3 50	\$3 62½	\$5 25	\$3 60	\$4 75		\$3 22	\$2 00
January, 1881	3 75	4 00 to 4 12	5 00	4 00			4 25	
January, 1882	4 62 to 4 87	4 75	5 12	4 75			4 25	\$3 12 to 3 37
January, 1883	5 00	4 75	5 00	4 75			4 25	2 12
January, 1884	5 00	4 75	5 00	4 75			4 25	1 85
February, 1880	3 43	3 50	4 00	3 50			4 25	1 50
February, 1881	3 70	4 00	4 25	4 25			4 25	1 50
February, 1882	3 62	3 75	4 25	4 25			4 25	2 75
February, 1883	4 87	4 75	5 37	4 75			4 25	3 25
February, 1884	5 00	5 75	6 25	5 75			4 25	1 50
March, 1880	3 00	3 50	4 25	3 50			4 25	1 35
March, 1881	3 62½	3 80	4 25	3 80			4 25	1 60
March, 1882	3 00	3 87	4 75	3 87			4 25	
March, 1883	3 00	4 87	5 50	5 50			4 25	
March, 1884	5 25	5 50	6 00	5 50			4 25	
April, 1880	3 25	3 62	4 75	3 62			4 25	
April, 1881	3 75	3 87½	4 75	3 87½			4 25	
April, 1882	3 00	4 00	4 62	4 00			4 25	
April, 1883	3 62	5 00	5 12	5 00			4 25	
April, 1884	5 12	5 62	6 25	5 62			4 25	
May, 1880	3 50	2 50	3 75	2 50			4 25	
May, 1881	4 62	3 50	4 75	3 50			4 25	
May, 1882	4 12	4 37	4 62	4 37			4 25	
May, 1883	3 75	5 00	5 25	5 00			4 25	
May, 1884	3 25	5 62	5 50	5 62			4 25	
June, 1880	4 12½	3 75	4 62½	3 75			4 25	
June, 1881	3 00	4 00	4 62½	4 00			4 25	
June, 1882	4 02	4 75	5 75	4 75			4 25	
June, 1883	1 50	5 00	5 62	5 00			4 25	
June, 1884	2 25	5 15	5 62	5 15			4 25	
July, 1880	3 10	3 75	4 70	3 75			4 25	
July, 1881	4 12½	4 12	5 00	4 12			4 25	
July, 1882	4 37	5 37	5 62	5 37			4 25	
July, 1883	4 37	5 37	5 62	5 37			4 25	
July, 1884	3 75	5 37	5 62	5 37			4 25	
August, 1880	3 12	4 00	4 75	4 00			4 25	
August, 1881	3 50	4 37½	4 87½	4 37½			4 25	
August, 1882	3 87	4 12	5 00	4 12			4 25	
August, 1883	3 50	4 62	5 00	4 62			4 25	
August, 1884	3 75	5 37	5 62	5 37			4 25	
September, 1880	3 75	5 37	5 62	5 37			4 25	
September, 1881	3 75	5 37	5 62	5 37			4 25	
September, 1882	3 75	5 37	5 62	5 37			4 25	
September, 1883	3 75	5 37	5 62	5 37			4 25	
September, 1884	3 75	5 37	5 62	5 37			4 25	

June, 1881	4 02	4 75	5 00	5 62	1 25	2 00	1 75
July, 1881	3 75	4 12	5 00	5 62	1 25	2 00	1 75
August, 1881	3 75	4 12	5 00	5 62	1 25	2 00	1 75
September, 1881	3 75	4 12	5 00	5 62	1 25	2 00	1 75
October, 1881	3 75	4 12	5 00	5 62	1 25	2 00	1 75
November, 1881	3 75	4 12	5 00	5 62	1 25	2 00	1 75
December, 1881	3 75	4 12	5 00	5 62	1 25	2 00	1 75
January, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
February, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
March, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
April, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
May, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
June, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
July, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
August, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
September, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
October, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
November, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
December, 1882	3 75	4 12	5 00	5 62	1 25	2 00	1 75
January, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
February, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
March, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
April, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
May, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
June, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
July, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
August, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
September, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
October, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
November, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
December, 1883	3 75	4 12	5 00	5 62	1 25	2 00	1 75
January, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
February, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
March, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
April, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
May, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
June, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
July, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
August, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
September, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
October, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
November, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75
December, 1884	3 75	4 12	5 00	5 62	1 25	2 00	1 75

Table showing the fluctuations of several of the leading varieties of fish at Boston, for five years, commencing January, 1880.

Month and year.	Haddock.	Cod.	Pickled pollock.	Slack salted pollock.	Large Nova Scotia split herring.	No. 1 box herring.	Medium scaled herring.	Large scaled herring.	Blosters.
January, 1880.	Per quintal. \$2 00 to 2 25	Per quintal. \$2 25 to \$2 50	Per quintal. \$1 85	Per quintal.	Per barrel.	Per box. 40 to 12	Per box. 40 to 15	Per box. 40 to 13	Per box. 40 to 60
January, 1881.						14	15	16	50
January, 1882.						14	17	18	50
January, 1883.						20	24	18	50
January, 1884.						13	14	12	50
February, 1880.	2 25 2 50	2 25 2 50	\$1 75 to 2 00			12	14	14	50
February, 1881.	1 75		3 12			15	18	16	50
February, 1882.			3 25 3 50			14	16	15	50
February, 1883.			3 25 2 50			14	18	16	50
February, 1884.			3 12			14	18	16	50
March, 1880.	2 25	2 25	3 12			14	18	16	50
March, 1881.	2 25	2 50	3 12			14	18	16	50
March, 1882.	3 50	3 50	3 12			14	18	16	50
March, 1883.	3 50	3 50	3 12			14	18	16	50
March, 1884.	1 75	2 50	3 12			14	18	16	50
April, 1880.						14	18	16	50
April, 1881.						14	18	16	50
April, 1882.						14	18	16	50
April, 1883.						14	18	16	50
April, 1884.						14	18	16	50
May, 1880.	2 60	2 60	3 12			14	18	16	50
May, 1881.	2 87	2 87	3 12			14	18	16	50
May, 1882.	3 87	3 87	3 12			14	18	16	50
May, 1883.						14	18	16	50
May, 1884.						14	18	16	50
June, 1880.	1 18 1 25	2 25	2 50			14	18	16	50
June, 1881.	2 00 2 40	2 25	2 50			14	18	16	50
June, 1882.	3 25 3 50	3 25 3 50	2 87			14	18	16	50
June, 1883.	2 50 (new)		2 12			14	18	16	50
June, 1884.			2 00			14	18	16	50
July, 1880.	1 50 1 75	2 12	1 50 2 00			14	18	16	50
July, 1881.	1 50 1 75	2 12	1 50 2 00			14	18	16	50
July, 1882.	2 50 3 00	3 00	2 00			14	18	16	50
July, 1883.			2 00			14	18	16	50
August, 1880.						14	18	16	50
August, 1881.						14	18	16	50
August, 1882.						14	18	16	50
August, 1883.						14	18	16	50
August, 1884.						14	18	16	50
September, 1880.						14	18	16	50
September, 1881.						14	18	16	50

June, 1882	2 50 (new)	2 12	2 75	3 00	2 25	10	14	10
June, 1883	1 50	2 12	1 75	2 25	1 75	14	22	16
June, 1884	1 50	1 75	1 50	2 00	1 75	13	19	13
July, 1882	1 50	2 50	3 00	3 75	3 75	12	15	12
July, 1883	2 50	3 00	2 00	5 00	5 00	23	28	24
July, 1884	3 00	2 50	3 75	4 00	4 37	10	16	18
August, 1880	3 12	2 00	2 00	2 00	2 00	14	20	18
August, 1881	3 12	2 00	2 00	2 00	2 00	16	20	18
August, 1882	3 12	2 00	2 00	2 00	2 00	16	20	18
August, 1883	3 12	2 00	2 00	2 00	2 00	16	20	18
August, 1884	3 12	2 00	2 00	2 00	2 00	16	20	18
September, 1880	2 00	2 25	2 37	2 25	2 25	17	22	19
September, 1881	2 00	2 25	2 37	2 25	2 25	17	22	19
September, 1882	2 00	2 25	2 37	2 25	2 25	17	22	19
September, 1883	2 00	2 25	2 37	2 25	2 25	17	22	19
September, 1884	2 00	2 25	2 37	2 25	2 25	17	22	19
October, 1880	2 00	2 00	2 00	2 00	2 00	17	22	19
October, 1881	2 00	2 00	2 00	2 00	2 00	17	22	19
October, 1882	2 00	2 00	2 00	2 00	2 00	17	22	19
October, 1883	2 00	2 00	2 00	2 00	2 00	17	22	19
October, 1884	2 00	2 00	2 00	2 00	2 00	17	22	19
November, 1880	2 00	2 00	2 00	2 00	2 00	17	22	19
November, 1881	2 00	2 00	2 00	2 00	2 00	17	22	19
November, 1882	2 00	2 00	2 00	2 00	2 00	17	22	19
November, 1883	2 00	2 00	2 00	2 00	2 00	17	22	19
November, 1884	2 00	2 00	2 00	2 00	2 00	17	22	19
December, 1880	2 00	2 00	2 00	2 00	2 00	17	22	19
December, 1881	2 00	2 00	2 00	2 00	2 00	17	22	19
December, 1882	2 00	2 00	2 00	2 00	2 00	17	22	19
December, 1883	2 00	2 00	2 00	2 00	2 00	17	22	19
December, 1884	2 00	2 00	2 00	2 00	2 00	17	22	19

September, 1880	2 50	2 12	2 75	3 00	2 25	10	14	10
September, 1881	2 50	2 12	2 75	3 00	2 25	10	14	10
September, 1882	2 50	2 12	2 75	3 00	2 25	10	14	10
September, 1883	2 50	2 12	2 75	3 00	2 25	10	14	10
September, 1884	2 50	2 12	2 75	3 00	2 25	10	14	10
October, 1880	2 50	2 12	2 75	3 00	2 25	10	14	10
October, 1881	2 50	2 12	2 75	3 00	2 25	10	14	10
October, 1882	2 50	2 12	2 75	3 00	2 25	10	14	10
October, 1883	2 50	2 12	2 75	3 00	2 25	10	14	10
October, 1884	2 50	2 12	2 75	3 00	2 25	10	14	10
November, 1880	2 50	2 12	2 75	3 00	2 25	10	14	10
November, 1881	2 50	2 12	2 75	3 00	2 25	10	14	10
November, 1882	2 50	2 12	2 75	3 00	2 25	10	14	10
November, 1883	2 50	2 12	2 75	3 00	2 25	10	14	10
November, 1884	2 50	2 12	2 75	3 00	2 25	10	14	10
December, 1880	2 50	2 12	2 75	3 00	2 25	10	14	10
December, 1881	2 50	2 12	2 75	3 00	2 25	10	14	10
December, 1882	2 50	2 12	2 75	3 00	2 25	10	14	10
December, 1883	2 50	2 12	2 75	3 00	2 25	10	14	10
December, 1884	2 50	2 12	2 75	3 00	2 25	10	14	10

ELEVENTH ANNUAL REPORT OF THE BOSTON FISH BUREAU, JANUARY, 1886.
REPORT.OFFICE OF BOSTON FISH BUREAU,
Boston, January 1, 1886.

In reviewing the fish trade for the past twelve months, it is with a feeling of satisfaction and pride that we are able to point to the fact that, in face of a large decrease in the catches of fish by the fleets, the receipts at Boston have held their own, proving beyond question that as a market for the different varieties of fish and as a distributing point its facilities are unequalled.

Low prices have been the rule in most lines during the year, bringing fish on a par with most food products.

The early Potomac herring fishery was fairly successful, but not as large as that of the year previous. The catches of mackerel and codfish have been fully up to the average, but when compared with the large catches of the year previous considerable shortage is noticed.

The falling off in the codfish catch we attribute, in a great measure, to the withdrawal of several large bank vessels from the codfishing business, on account of the poor encouragement offered by the low prices at the beginning of the season, and not on account of the scarcity of these fish, vessels arriving from Grand and Quebec Banks with fares averaging larger than those which arrived from there during the previous season. While this is true in regard to the catch of codfish, the shortage in the catch of mackerel is attributable to the fact that they were not as abundant in our waters as during the season of 1884. While the catch of mackerel on our New England shore has not been as large in 1885 as in the previous year, the catch in North Bay, or Bay St. Lawrence, has been larger, showing the mackerel were more abundant there the past year than in 1884.

During the past season there have been 44 vessels from New England ports engaged in the North Bay mackerel fishery, as against 108 during the season of 1884, the number of barrels of bay mackerel inspected during the past season being 27,672, as against 19,637 for the season of 1884. The catch of mackerel by the provincial fleet, on the Nova Scotia and Prince Edward Island shores, has been below an average in quantity, and this, in connection with the duty, accounts for the large shortage noticeable in the receipts of foreign mackerel, which shortage has been mainly on the poorer and smaller grades of fish, which could not well afford to pay the heavy duties exacted, and which have been used for the West India markets, in place of sending them to the States. All fat mackerel have been wanted and readily taken by the trade. According to the most reliable authorities, the catch of cod at Newfoundland has been up to the average in quantity. The receipts of codfish from Newfoundland, however, are not much of a factor in the fish trade of Boston, the most of their business being with Spain, Portugal, and Brazil, to which countries they send yearly enormous quantities of codfish.

The Labrador herring fishery has been an exceptionally good one, large quantities of herring of good size and excellent quality having been taken. About 15,000 barrels of them reached this market, and sold from \$3.75 to \$4.75 per barrel.

Mackerel.—The fleet made its usual early start for the southern fishery, the fishery, the first vessel to start being the schooner *Mollie Adams*, of Gloucester, on March 4. This is the earliest departure for the southern mackerel fishery on record. The first fare of fresh mackerel for the season (125 barrels) was taken in by the schooner *Emma Brown*, of Gloucester, at New York, on the afternoon of March 28, she being followed, a few minutes later, by the schooner *Nellie N. Rowe*, of Gloucester, with about the same amount of fish. Great rivalry exists among the fishermen as to who shall land the first fare of mackerel. The *Rowe* was successful in 1883 and 1884, landing the first fare at New York on March 31, 1883, and March 24, 1884.

During the subsequent mackerel fishing in southern waters enormous quantities of very small and inferior fish were taken into New York and Philadelphia, large quantities of which were sold for merely nothing, and many fares were taken to sea again and thrown overboard, resulting in a general loss to the fleet, although a lucky few did fairly well. We hope to see the bill prohibiting the importation or catching of mackerel between the 1st day of March and the 1st day of June become a law. This would put a stop to the catching of large quantities of very small mackerel, and would unquestionably be a benefit to all parties interested, whether dealers, fishermen, or consumers. The general run of the mackerel taken this season by our shore fleet has been better in size and quality than that of the year previous, there being but little difference between 2's and 3's, making dealers ready buyers of 3's as placed on the market. Prices have hardly ruled even with those for the year 1884, especially when quality and cull are considered. The first sale of new salt mackerel for the season was at New York, on April 6, at \$3 per barrel, from pickle, with barrel; selling in cargo lots at Boston, in May, at from \$2 to \$2.75, from pickle, with barrel; in June, at from \$2.75 to \$3.75, from pickle, with barrel; in July, at from \$3 to \$4.25, from pickle, with barrel, for shores, and \$9.75 to \$13, from pickle, with barrel, for Block

JANUARY, 1886.

FISH BUREAU,
JANUARY 1, 1886.

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Islands; in August at \$2.50 to \$3 for 3's, \$5 to \$5.50 for 2's, and \$10 to \$12 for 1's, packed from vessel, for Massachusetts Bays; in September, at \$5.50 to \$6.25, from pickle, with barrel, and \$3.25 to \$4 for 3's, \$6 to \$6.50 for 2's, and \$13 to \$14 for 1's, packed from vessel, for Massachusetts Bays and Eastern Shores; in October, at from \$6.25 to \$7.50, from pickle, with barrel, for Massachusetts Bays and Eastern Shores, and in November, at \$6 to \$6.50, from pickle, with barrel, for Eastern Shores. Nova Scotia mackerel have sold from \$6 to \$8 per barrel; Prince Edward Island mackerel from \$6 to \$15 per barrel. The first receipts from the island were on July 13.

Large bodies of mackerel were on the Labrador coast during the past season, and there is no doubt that, if fishermen had been prepared and knew how to handle them, there would have been some fish from that section; some fine few lots received that were well handled proved of fine quality, and sold for \$17.50 per barrel; they were of large size, and fat.

Herrings.—As has been stated, the Potomac herring fishery was a good one as far as the taking of herrings went; prices ruled low. Owing to the fact that the cheaper grades of herring, such as Dalhousie and George's Bay, of which in previous years we have received large quantities, would be almost entirely excluded by the duty of \$1 per barrel, a great many more vessels were fitted out our for Shore herring fishery than usual, hoping to make up as much as possible the difference caused by the imposition of the duty. We estimate the last season's catch at from 25,000 to 30,000 barrels, which is an unusually large catch. They sold during the season at from \$2 to \$2.50 per barrel in cargo lots according to contract. The frozen-herring industry, which is yet in its infancy, is developing rapidly. The principal fishing grounds are at Eastport, Grand Manan, New Brunswick, and Fortune Bay, Newfoundland. The receipts at Boston during the year 1885 were about 30,000 barrels, or 15,000,000 fish. These fish are used very extensively by the Georges Bank cod and haddock fishermen as bait during the winter season; large quantities are also used for food purposes, being shipped in a frozen state nearly all over the United States. The first vessel to arrive here with a cargo of them for the season of 1884-'85, being the Anna and Lilla, of Portland, from Eastport, with 150,000 fish, on December 18, 1884; the same vessel also brought the first cargo for the season of 1885-'86, 200,000 fish on December 17, 1885, from Eastport. They have been selling during the season at from 25 cents to \$1.50 per hundred. The George's Bay and Nova Scotia splits have been almost an entire failure. Dalhousie herrings have not been saved this season, as the fishermen could not pay the duty exacted; none have been received in the States the past year.

Labrador herrings have been in good supply, and, as has been stated before, have sold from \$3.75 to \$4.75 per barrel; which seem like fair prices; still results to the fishermen have been poor.

Codfish.—The catch shows a falling off of some 10 per cent., and prices for the season have hardly ruled with those of 1884. The range of prices has been \$2.75 to \$3.75 per quintal for large dry Bank, \$2.50 to \$3 per quintal for mediums, \$2.50 to \$3.50 for large picked Bank, and \$2.50 to \$3 for mediums. Catches of pollock and cusk have been light, while the catch of hake has been somewhat larger than for the previous season, yet it has not been large enough to be called an average catch. The shortages in these varieties have not been missed by the trade, owing to the large supplies of low-priced codfish.

Salmon and trout.—The catches of these articles have been fully up to the usual average, and prices have been advanced just about the duties over those of 1884, salmon ranging from \$10 to \$15 for Northern, \$8 to \$13 for California; trout, \$8 to \$10 per barrel.

Box herrings.—The receipts in this line show some little falling off, mainly from the provinces; prices have ruled lower than for 1884.

Bloaters.—Bloaters have been in good supply; demand fair, and prices have ruled from 40 to 90 cents per box. While our receipts give small amount as coming from foreign ports, more than one-half of entire receipts are from New Brunswick, entered and duty paid at Eastport; same is also true of box herrings; over one-half of receipts from home ports are from New Brunswick.

Canned fish.—The popularity of these goods is steadily increasing with the consumers. *Canned mackerel.*—As was to be expected, with care on the part of the packers, looking to the using of only good stock in its preparation, the season just closed has proved that the packers have not secured all the stock required by the trade; prices have ranged from 75 cents to \$1 per dozen, and stocks have gone out quite clean.

Canned lobsters.—There has been a fair pack of this article; the opening price was \$1.60 per dozen, but it has hardly been maintained, and sales at the close of the year were at \$1.50 per dozen.

Sardines.—While the catch of fish suited to the packing of these goods has been a light one during the past season, prices have been well maintained and have no doubt left fair margins of profit to the packers; the outlet for these goods is steadily increasing.

Fresh fish.—Although we have never attempted to tabulate the statistics of the enormous quantities of fresh fish handled at Boston, we have during the past year taken account of the receipts of fresh mackerel, which amount to 43,843 barrels, re-

ceived from the fleet direct, and from the Cape Cod weirs; there were 6,848 barrels forwarded by rail and boat from New York, and 2,964 barrels imported from the vicinity of Yarmouth and Barrington, N. S. There are now about thirty-five vessels hailing from Boston which are engaged in the fresh cod, haddock and halibut fisheries; these thirty-five, however, form but a very small proportion of the whole number of vessels actively engaged in supplying Boston market with fresh fish, a great many vessels from Gloucester and other ports landing fish here as well. The amount of fresh cod, haddock, and halibut landed at T Wharf alone during the year 1885 being 25,510,000 pounds, according to official figures given our agent. There are no reliable statistics which can be given of the large quantities of bluefish, salmon, smelts, &c., with which our market is supplied during their respective seasons.

We tender the result of the year's business with our best wishes, and return to our many correspondents and friends our sincere thanks for the assistance which has been so readily given us in the past, and of which we would ask a continuance.

F. F. BURGESS, Secretary.

Fish received by Boston dealers from foreign and domestic ports, 1885.

Fish.	January.		February.		March.		April.		May.		June.	
	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.
Mackerel..... barrels..	2,218	2,210	5,502	2,407	5,885	3,400	5,701	604	6,102	22	4,815	9,450
Mackerel fleet, inspected, barrels	252	1,594	161	4,535	260	2,742	110	1,568	125	502	72	2,167
Herrings..... barrels..	3,596	2,014	11,828	1,961	7,100	2,018	8	5		80	573	3,231
Herrings, frozen..... do.		357		375						6		116
Salmon..... do.		90	941	50		516		95		300		5
Alewives..... do.								103				3
Alewives, smoked..... do.												
Trout..... do.												
Shad..... do.												
Herrings..... boxes..	11,248	13,160	20,050	38,000	45,871	41,853	42,920	68,212	41,180	31,700	33,300	64,300
Bloaters..... do.	4,603	60	11,315	255	4,170	68						
Boneless..... do.	1,830		2,440		1,576		788					
Mackerel..... do.	1,418				13	46						
Lobsters..... do.					10	103						
Codfish..... quintals..	15,445	1,658	11,802	1,428	19,583	1,019	3,731	629	3,891	78	6,622	5,390
Hake..... do.	343		204		703		185					
Haddock..... do.	15						26					
Pollock..... do.					200	150	431				100	90
Cusk..... do.	85						374		20			

Fish.	July.		August.		September.		October.		November.		December.	
	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.	Home ports.	Foreign ports.
Mackerel..... barrels..	7,572	1,225	13,471	1,029	14,562	3,012	7,533	10,174	5,780	5,650	1,737	1,427
Mackerel fleet, inspected, barrels	66	650	21	41	2,254	9,502	7,168	6,674	2,856	5,362	897	1,765
Herrings..... barrels..												
Herrings, frozen..... do.		197		553		232	15	47		170		17
Salmon..... do.		80	21	80	6	4		1,149	365	1,104		351
Alewives..... do.												
Alewives, smoked..... do.												
Trout..... do.												
Shad..... do.												
Herrings..... boxes..	5,763		45,088		16,255	13,615	51,296	20,490	61,286	36,912	9,150	19,183
Bloaters..... do.					1,619	345	5,572	310	4,337		2,850	
Boneless..... do.	674		783		1,811		3,061		1,231		585	
Mackerel..... do.	338		2,063		4,361	40	544	1,929	250	848	343	97
Lobsters..... do.	638	1,750	25	4,370	30	2,632	2,493					
Codfish..... quintals..	5,879	144	9,592	5,360	28,628	15,018	10,509	9,314	7,512	12,153	11,969	3,788
Hake..... do.	120		45		2	2,358	88	5,051	1,509		3,281	
Haddock..... do.					26	390				190		
Pollock..... do.	20		24		17	290		167	256	52	20	116
Cusk..... do.						145		280		60		

Fish received by Boston dealers from foreign and domestic ports, 1865—Continued.
RECAPITULATION.

Fish.	Total home.	Foreign total.	Grand total.
Mackerel barrels..	80,678	41,000	121,678
Mackerel fleet, inspected do..	68,714		189,001
Herrings do..	14,274	37,112	51,386
Herrings, frozen do..	24,200	5,440	29,640
Salmon do..	20	2,084	2,104
Alewives do..	1,915	6,840	8,755
Alewives, smoked do..		606	606
Trout do..		631	631
Shad do..	46	418	464
Herrings boxes..	412,313	337,618	749,931
Flourishers do..	32,471	1,038	33,509
Boncleas do..	16,114		16,114
Mackerel do..	10,207	2,965	13,172
Lobsters do..	1,066	18,014	19,080
Colish quintals..	143,364	56,861	199,225
Hake do..	14,401	88	14,489
Haddock do..	1,082	53	1,134
Pollock do..	1,402	1,035	2,437
Cusk do..	610		610

Fish received by Boston dealers, 1881-1885.

Fish.	1881.			1882.			1883.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel barrels..	73,653	61,850	135,503	44,186	37,616	81,802	29,802	75,226	105,028
Mackerel, Boston fleet, barrels..	69,669		204,929	83,175		164,977	44,431		149,469
Herrings barrels..	12,420	44,906	57,326	10,578	41,978	52,556	9,129	84,650	93,779
Alewives do..	0,184	8,104	8,288	1,129	9,699	10,828	2,125	10,650	12,775
Salmon do..	980	1,997	2,977	2,144	1,690	3,834	1,200	3,216	4,416
Trout do..	1,147	1,147	2,294		1,845	1,845		1,584	1,584
Herrings, smoked boxes..	337,830	274,592	612,422	250,799	449,080	708,879	234,040	233,547	467,587
Flourishers, smoked do..	29,619	810	30,429	30,551	5,066	35,617	24,944	3,196	28,140
Cod quintals..	125,450	56,852	182,302	80,297	50,578	130,875	104,162	59,367	163,549
Hake do..	41,021	7,901	48,922	29,625	9,434	39,059	24,629	2,075	26,744
Haddock do..	5,782	1,631	7,413	2,288	1,081	3,369	1,082	1,077	2,159
Pollock do..	1,773	8,020	9,793	956	1,120	2,076	1,341	1,108	2,449
Cusk do..	1,409	88	1,497	1,584	104	1,688	626	50	676
Shad barrels..		1,152	1,152	20	1,245	1,271	56	545	595
Boncleas fish boxes..	14,293	810	15,103	11,333	107	11,530	20,068	1,580	21,654

Fish.	1884.			1885.		
	Domestic receipts.	Foreign receipts.	Total.	Domestic receipts.	Foreign receipts.	Total.
Mackerel barrels..	46,763		179,373	80,678		189,001
Mackerel, Boston fleet. do..	72,184	60,426	132,610	66,714	41,609	108,323
Herrings do..	7,855	55,093	62,948	14,274	37,112	51,386
Alewives do..	1,606	8,675	10,281	1,915	6,840	8,755
Salmon do..		1,803	1,883	20	2,064	2,104
Trout do..		994	994		631	631
Herrings, smoked boxes..	394,276	398,968	793,244	412,313	337,618	749,931
Flourishers, smoked do..	32,083	4,400	36,573	32,471	1,038	33,509
Cod quintals..	122,254	77,201	199,455	142,364	56,861	199,225
Hake do..	7,443	2,047	9,490	14,401	88	14,489
Haddock do..	1,290	1,342	2,632	1,082	52	1,134
Pollock do..	1,344	3,191	4,535	1,405	1,035	2,440
Cusk do..		722	737		610	610
Shad barrels..		320	320		46	46
Boncleas fish boxes..	10,281	150	10,431	16,114		16,114

were 6,348 barrels
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assistance which has
a continuance.
URGESS, Secretary.

ports, 1885.

	May.		June.	
	Home ports.	Foreign ports.	Home ports.	Foreign ports.
4	6,102	22	4,815	8,458
5	125	502	72	2,107
6		80		52
7	6	573	3,221	
8	390		118	
9		20	6	
10	887	498		
11	240	5	692	
12	602	716	5,753	
13	3,891	78	6,622	5,200
14			100	90
15	20			
16				
17				
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Statement showing the number and tonnage of vessels of the United States employed in the cod and mackerel fisheries June 30, 1885.

SUMMARY.

States in which documented.	Vessels above 20 tons.		Vessels under 20 tons.		Total.	
	No.	Tons.	No.	Tons.	No.	Tons.
Maine	324	17,528.06	283	3,452.24	607	20,980.30
New Hampshire	14	589.11	5	72.79	19	661.90
Massachusetts	631	43,994.17	182	2,036.95	813	45,941.12
Rhode Island	11	1,081.00	66	632.56	77	1,713.56
Connecticut	58	3,246.48	65	777.62	123	4,024.10
New York	16	3,166.94	103	1,516.25	119	4,683.19
Virginia	4	231.13			4	231.13
North Carolina	1	33.22	1	11.28	2	44.50
Florida	11	372.53	4	46.14	15	418.67
California	19	3,821.93	5	43.79	24	3,865.72
Total	1,080	73,975.23	714	8,580.66	1,803	82,555.89

Taken from the Annual Report of the Commissioner of Navigation.

Amount of inspected barrels New England mackerel catch packed at each port as reported to the Boston Fish Bureau, 1885.

Ports.	New England shore fleet.	North Bay fleet.	Total number of sail.	Total number of crew.	New England shore catch.	North Bay catch.	Total catch.
Massachusetts:					<i>Insp. bbls.</i>	<i>Insp. bbls.</i>	<i>Insp. bbls.</i>
Boston	15	1	16	240	56,350	10,534	66,714
Beverly ¹					100		100
Cohasset ²	3		3	45	269		3,000
Dennisport ²	4		4	39	3,000		100
Fairhaven ²	1		1	14	100		115,000
Gloucester ²	136	40	176	2,640	100,000	15,000	2,900
Harwichport ²	6		6	92	3,950		
Newburyport ²	2		2	27			
Provincetown ²	14	1	15	225	14,513	333	14,846
Plymouth ²	2		2	30			
Rockport ²	9		9	90			
South Chatham ²	4		4	60	3,040		2,040
South Harwich ²	1		1	15			
Wellfleet ²	36		36	576	20,749		20,749
Total	233	42	275	4,123	201,062	25,607	226,739
Maine:							
Booth Bay	7		7	106	6,500		6,500
Canaan ²	2		2	20			
Deer Isle ²	1		1	12			
Eastport ²	1		1	18			
Islesford ²	3		3	33	150		150
North Haven ²	17		17	297			
Portland ²	59	1	60	918	88,025	1,975	90,000
Southport ²	10		10	155	6,534		6,534
Swan's Island ²	8	1	9	143			
Vinal Haven ²	3		3	45			
Total	111	2	113	1,756	101,209	1,975	103,184

¹ Mackerel cured at Beverly were taken in traps.

² Whole or part of catch packed at other ports.

Amount credited to each port is the amount packed there, regardless of amount of catch of vessels hailing from there, which in many instances packed at other ports.

ates employed in the cod

Total mackerel catch of New England fleet for five years, as reported to the Boston Fish Bureau.

under ns.	Total.		States.	Year.	New England shore vessels.	North Bay vessels.	Total sail.	Total crew.	New England shore catch.	North Bay fleet.	Total catch.
<i>Tons.</i>	<i>No.</i>	<i>Tons.</i>							<i>Insp. bbls.</i>	<i>Insp. bbls.</i>	<i>Insp. bbls.</i>
452.24	607	20,980.94	Massachusetts	1885	233	42	275	4,123	201,062	25,697	228,759
72.79	19	661.90	Maine	1885	111	2	113	1,750	101,209	1,975	103,184
036.95	813	45,941.12	Total		344	44	388	5,870	302,271	27,672	329,943
632.56	77	1,712.62	Massachusetts	1884	182	87	269	4,265	280,699	17,787	307,486
777.62	123	4,624.16	Maine	1884	71	21	92	1,402	168,740	1,850	170,590
516.25	119	4,683.19	Total		253	108	361	5,667	458,439	19,637	478,076
11.28	4	231.13	Massachusetts	1883	214	54	268	7,385	142,545	20,266	168,811
46.14	15	44.50	Maine	1883	81	9	90	1,349	55,474	2,400	57,874
43.70	24	3,065.72	Total		295	63	358	8,734	198,019	22,666	220,685
580.66	1,803	82,504.89	Massachusetts	1882	240		240	3,823	258,716		258,716
			Maine	1882	88		88	1,150	110,847		119,847
			New Hampshire	1882	8		8	104	300		300
			Total		342		342	5,083	378,863		378,863
			Massachusetts	1881	203	8	206	2,975	269,165	330	269,495
			Maine	1881	94		94	1,177	116,622	140	116,762
			New Hampshire	1881	8		8	106	5,400		5,400
			Total		295	3	298	4,258	391,187	470	391,657

each port as reported to

New
England
shore
catch.

<i>Insp. bbls.</i>	<i>Insp. bbls.</i>	<i>Insp. bbls.</i>
56,350	10,334	66,714
100		100
209		209
3,000		3,000
100		100
00,000	15,000	115,000
3,950		3,950

14,513

2,040

20,740

01,062

6,500

88,025

6,534

150

01,209

1,975

103,184

1,975

103,184

1,975

103,184

1,975

103,184

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1,975

103,184

1,975

In the above the Southern catch and number of vessels are included in the shore catch.

Total catch of cod and other ground fish for five years, as reported to the Boston Fish Bureau.

States.	Year.	Vessels on Grand and Western Banks.	Vessels on Northeast shore and Georges Banks.	Total sail.	Total crews.	Catch on Grand and Western Banks.	Catch on Northeast shore and Georges Banks.	Total catch.
Massachusetts	1885	163	264	427	5,105	Quintals.	Quintals.	Quintals.
Maine	1885	53	250	303	3,347	280,303	443,177	732,480
Total		216	514	730	8,448	85,125	84,850	169,975
Massachusetts	1884	229	109	428	5,277	364,383	330,130	730,513
Maine	1884	77	260	337	3,474	90,350	171,440	270,790
Total		306	459	765	8,751	403,733	507,570	1,001,303
Massachusetts	1883	248	160	408	5,216	487,760	267,000	755,660
Maine	1883	70	262	338	3,885	90,075	215,063	306,038
Total		324	422	746	8,001	578,735	482,063	1,061,698
Massachusetts	1882	240	153	393	4,804	400,272	200,915	601,187
Maine	1882	71	218	289	3,785	73,806	221,011	295,717
New Hampshire	1882	4	6	10	130		2,000	2,000
Total		315	377	692	7,719	474,078	424,826	898,904
Massachusetts	1881	170	178	367	4,254	263,590	285,050	548,640
Maine	1881	73	143	216	1,914	72,750	150,637	212,387
New Hampshire	1881	6	15	21	234	9,000	5,000	14,000
Total		268	336	604	6,402	355,340	410,387	775,027

amount of catch of vessels

New England fleet catch of cod and other ground fish, landed at home ports, as reported to the Boston Fish Bureau, 1885.

Ports.	Vessels on Grand and Western Banks.	Vessels North-east shore and George Bank.	Total fleet.	Total crews.	Catch on Grand and Western Banks.	Catch on North-east shore and Georges Banks.	Total catch.
Massachusetts:					<i>Quintals.</i>	<i>Quintals.</i>	<i>Quintals.</i>
Beverly ¹	5	8	13	135	6,000	950	6,950
Chatham ²	4	0	13	235	4,500	7,600	12,100
Fairhaven ³	1	1	2	35	1,000	1,100	2,100
Gloucester ^{4,5,6}	90	223	313	3,191	140,855	117,927	258,782
Marblehead ⁷				5		300	300
Orleans ⁸				25		2,000	2,000
Plymouth ⁹	3		3	32	2,700		2,700
Provincetown ¹⁰	58	14	72	1,010	133,000	1,000	134,000
Rockport ¹¹		0	0	0		14,000	14,000
South Harwich ¹²	2		2	47	1,200	2,000	3,200
Total.....	163	264	427	5,105	289,063	44,100	333,163
Maine:							
Booth Bay ¹	4	8	12	129	2,500	11,000	13,500
Bar Harbor ²				20		1,000	1,000
Bass Harbor		35	35	300		8,000	8,000
Bucksport	10	1	11	137	10,500	500	11,000
Bremen ³	2	4	6	60	3,250	7,075	10,325
Cape Porpoise ⁴		13	13	75		500	500
Cranberry Isle ⁵		7	7	78		1,000	1,000
Eastport ⁶	1	30	31	170	1,000	11,000	12,000
Ellsworth ⁷	3		3	60		500	500
East Booth Bay ⁸		4	4	40		1,000	1,000
Friendship		7	7	40		1,000	1,000
Harpwell ⁹		11	11	90		2,500	2,500
Lamoine	6		6	111	11,175		11,175
Lubec		2	2	75		500	500
Mtineus ¹⁰		7	7	50		1,000	1,000
North Haven ¹¹	2	5	7	50	1,000	1,000	2,000
New Harbor ¹²		4	4	50	1,000	1,000	2,000
Orland ¹³	5	2	7	83	2,700		2,700
Portland	13	45	58	712	20,800	15,000	35,800
Penasquid		10	10	125		500	500
Port Clyde ¹⁴		5	5	30		1,800	1,800
Southport ¹⁵	5		5	95	10,000	3,000	13,000
Swan's Island ¹⁶		5	5	55		950	950
Southwest Harbor		8	8	75		6,000	6,000
Sedgwick	2		2	25	4,100		4,100
Vinal Haven ¹⁷		35	35	240		10,000	10,000
Winter Harbor		2	2	40		600	600
Total.....	53	250	303	3,343	85,125	84,850	169,975

¹ Includes one sail that fished off Greenland and landed 400 quintals halibut.

² Catch of small shore boats, and number of men in same included.

³ Catch of South Chatham, number of vessels, &c., included.

⁴ Includes vessels in halibut fishery.

⁵ Brown's Bank vessels and amount of catch (about 91,700 quintals) are included with Georges and Shore.

⁶ About 25,000 quintals included, which were landed by vessels from other ports.

⁷ Includes five vessels that fished in North Bay.

⁸ Includes 2,000 quintals landed at East Harwich by boats.

⁹ Bank fish cured at Bucksport.

¹⁰ Landed fish at Vinal Haven.

¹¹ 1,600 quintals landed by Booth Bay vessel.

¹² 1,200 quintals cured at Vinal Haven.

¹³ 4,900 quintals cured by Booth Bay vessels.

ports, as reported to

Price per barrel of each grade of pickled mackerel in Massachusetts in the first week in September from 1830 to 1885.

Catch on North-east shore and Georges Bank.	Total catch
0,000	6,950
4,500	7,600
1,000	1,400
10,853	417,927
300	538,780
2,000	200
2,700	2,000
13,000	1,000
1,200	10,000
30,303	2,000
443,177	3,200
2,500	100
10,500	500
3,250	2,078
1,000	1,000
14,173	14,173

Year.	No. 1.	No. 2.	No. 3.	Year.	No. 1.	No. 2.	No. 3.
1830	\$5.00	\$4.50	\$2.02	1861	\$8.50	\$1.50	\$2.75
1831	5.75	4.75	2.02	1862	8.25	0.00	4.50
1832	5.00	4.00	1.75	1863	14.00	9.25	6.50
1833	5.72	4.72	1.75	1864	30.00	20.00	
1834	5.72	4.72	1.75	1865	22.00	15.00	0.75
1835	7.00	0.00	4.00	1866	23.75	13.25	
1836	0.00	8.00	5.00	1867	17.00	12.25	7.50
1837	7.75	6.50	4.12	1868	17.00	13.00	
1838	11.00	9.25	5.50	1869	23.00	11.50	
1839	12.50	10.50	7.00	1870, bay	31.50	11.00	
1840	12.75	10.50	5.50	1870, shore	23.00	9.75	
1841	12.50	10.00	6.00	1871, bay	10.50	7.50	5.50
1842	9.10	8.00	4.00	1871, shore	11.25	7.25	6.25
1843	10.12	8.12	6.00	1872, bay	11.50	9.25	7.00
1844	0.50	7.50	5.50	1873, shore	14.50	9.50	
1845	13.00	10.50	8.87	1873, bay	14.75	12.25	9.00
1846	9.12	8.25	3.87	1873, shore	20.00	12.25	
1847	12.75	8.25	4.25	1874, bay	15.00	8.00	7.00
1848	0.00	0.00	3.37	1874, shore	13.25	9.00	7.00
1849	12.00	7.00	3.50	1875, bay	14.00	11.00	
1850	10.12	8.12	5.00	1875, shore	16.25	10.25	7.50
1851	10.00	0.50	5.12	1876	15.00	6.75	5.50
1852	9.00	7.00	5.75	1877	10.50	12.50	8.50
1853	11.50	9.50	7.50	1878	18.00	8.00	5.00
1854	15.00	13.25	5.00	1879	19.00	5.00	5.00
1855	15.00	13.00	6.25	1880	14.00	7.00	4.00
1856	15.00	12.50	6.00	1881	14.00	0.00	4.00
1857	15.00	12.50	8.50	1882	18.00	11.00	8.00
1858	15.00	12.50	8.50	1883	20.00	14.00	10.50
1859	14.50	12.50	8.50	1884	14.00	10.00	3.50
1860	10.00	8.50	5.00	1885	13.75	5.75	3.75

Number of barrels of each quality of pickled mackerel inspected in Massachusetts from 1830 to 1885, and the total value of each year's inspection from 1830 to 1885.

Years.	Barrels mackerel inspected.					Total value.
	1	2	3	4	Total.	
1830	2,274	3,078	3,472		8,825	
1831	2,540	4,770	5,242		12,552	
1832	1,368	6,023	10,000		17,401	
1833	1,000	2,154	2,726		5,881	
1834	000	1,231	1,625		3,756	
1835	80	546	708		1,330	
1836	3,225	5,450	7,877		16,050	
1837	8,004	9,204	13,010		30,000	
1838	10,400	5,267	21,658		37,362	
1839	14,410	11,162	20,775		46,348	
1840	19,614	30,521	43,075		100,111	
1841	12,455	34,811	68,374		115,641	
1842	7,400	22,103	71,503		111,006	
1843	20,035	60,681	73,578		160,294	
1844	19,804	62,047	63,154		145,006	
1845	45,246	75,221	71,183		191,650	
1846	29,640	109,840	114,984		254,384	
1847	43,490	80,584	34,657		158,740	
1848	81,357	69,335	30,012		190,304	
1849	93,235	110,696	63,422		237,224	
1850	54,184	77,008	94,005		225,197	
1851	47,808	104,600	156,025		308,433	\$1,110,470
1852	70,198	171,186	143,184		385,548	1,580,036
1853	28,670	97,219	96,553		222,442	707,707
1854	54,559	98,027	69,445		222,031	976,035
1855	80,433	93,659	78,892		252,874	1,105,842
1856	45,605	57,271	01,024		104,800	1,030,560
1857	53,065	60,558	60,187		174,410	1,208,388
1858	24,573	01,027	52,557		138,157	803,653
1859	37,068	28,588	44,184		110,740	925,002
1860	22,217	22,037	80,013		74,267	719,204
1861	19,351	11,049	20,001		50,401	473,345
1862	23,747	10,649	21,141		55,537	518,300

Total number of barrels of each quality of pickled mackerel inspected, &c.—Continued.

Years.	Barrels mackerel inspected.				Total.	Total value.
	1	2	3	4		
1842.....	29,363	22,498	2,484	—	75,344	\$91.93
1843.....	32,759	13,698	18,694	—	69,151	59.49
1844.....	28,843	22,514	35,022	—	86,381	64.52
1845.....	28,684	88,624	84,366	—	201,674	1,883.69
1846.....	34,149	74,095	46,775	—	154,019	1,094.58
1847.....	104,363	76,000	71,360	—	251,723	2,290.95
1848.....	14,031	79,275	107,088	—	200,394	1,838.50
1849.....	61,494	81,000	65,590	—	208,084	1,841.28
1850.....	88,419	—	87,000	21,000	196,419	1,773.57
1851.....	109,274	16,400	1,000,000	—	1,125,674	2,239.51
1852.....	81,000	6,700	41,000	—	128,700	1,491.93
1853.....	40,000	—	—	10,000	50,000	1,297.55
1854.....	40,000	46,24	—	—	86,24	1,313.55
1855.....	29,000	91,122	90,100	1,378	211,500	2,129.94
1856.....	89,000	76,819	47,984	178	213,981	2,604.51
1857.....	84,500	45,218	38,257	711	168,786	1,567.78
1858.....	75,347	21,929	31,912	1,992	131,660	1,707.77
1859.....	61,300	12,069	22,207	4,118	99,715	1,556.55
1860.....	58,828	122,897	50,558	3,411	235,694	2,386.57
1861.....	70,873	100,246	22,166	603	194,888	1,707.00
1862.....	81,000	78,388	100,011	—	259,400	1,790.00
1863.....	67,085	136,075	102,001	—	295,161	1,775.77
1864.....	109,000	107,746	33,212	—	249,958	1,741.16
1865.....	154,724	61,562	39,266	244	255,796	1,700.00
1866.....	159,322	36,319	41,774	269	237,684	1,747.50
1867.....	132,808	46,628	41,048	118	220,602	1,701.90
1868.....	91,004	47,740	44,073	676	183,493	1,467.00
1869.....	77,004	52,019	65,717	3,540	197,280	1,488.00
1870.....	66,000	189,422	63,619	—	319,041	1,740.16
1871.....	105,187	—	68,300	—	173,487	1,234.65
1872.....	71,806	54,700	—	115	126,621	1,908.00
1873.....	89,687	63,888	7,700	76	161,351	2,700.00
1874.....	112,974	71,440	71,960	—	256,374	2,657.00
1875.....	32,106	19,700	25,423	4,331	81,560	1,500.00
1876.....	30,800	96,750	94,481	4,818	226,849	1,650.00
1877.....	18,000	37,290	37,700	1,294	94,284	1,132.29
1878.....	14,004	48,170	70,175	11,783	144,132	1,600.00
1879.....	9,025	61,113	54,800	354	125,292	892.00
1880.....	20,453	104,434	90,554	10,510	215,951	1,474.00
1881.....	15,598	139,680	98,801	2,127	256,106	1,600.00
1882.....	39,046	95,121	123,798	428	258,393	2,740.00
1883.....	20,852	48,078	48,341	36,867	154,140	1,600.00
1884.....	22,377	59,837	188,621	13,000	283,835	1,800.00
1885.....	15,742	100,904	92,051	789	210,486	1,200.00

Number of barrels inspected as above given are from the official returns of the inspector-general.

Table showing the fluctuations of several of the leading varieties of fish at Boston for five years commencing January, 1881.

Month and year.	Large pickled Bank cod.	Large dry Bank cod.	Large pickled Shore cod.	Large dry Shore cod.	Large dry French cod.	Large New-foundland cod.	Small pickled Bank cod.	Hake.
	Per quintal.	Per quintal.	Per quintal.	Per quintal.	Per quintal.	Per quintal.	Per quintal.	Per quintal.
January, 1881.....	\$3 75	\$1 00 to 4 12	\$5 00	\$5 00	\$4 75	\$5 50	\$3 35	3 12 to 3 37
January, 1882.....	4 62 to 4 87	3 50 to 6 00	5 12 to 5 37	5 12 to 5 37	5 12 to 5 37	6 00	4 37 to 4 50	3 12 to 3 37
January, 1883.....	5 88 to 6 00	3 50 to 6 00	5 12 to 5 37	5 12 to 5 37	5 12 to 5 37	6 00	4 37 to 4 50	3 12 to 3 37
January, 1884.....	5 88 to 6 00	3 50 to 6 00	5 12 to 5 37	5 12 to 5 37	5 12 to 5 37	6 00	4 37 to 4 50	3 12 to 3 37
January, 1885.....	5 88 to 6 00	3 50 to 6 00	5 12 to 5 37	5 12 to 5 37	5 12 to 5 37	6 00	4 37 to 4 50	3 12 to 3 37
February, 1881.....	3 62 to 4 75	4 25 to 6 12	4 75 to 6 25	4 75 to 6 25	4 75 to 6 25	6 00	3 00 to 3 25	1 50 to 1 60
February, 1882.....	5 50 to 6 75	4 75 to 6 12	6 25 to 6 50	6 25 to 6 50	6 25 to 6 50	6 00	3 50 to 4 25	2 75 to 2 90
February, 1883.....	3 00 to 3 88	5 37 to 6 62	6 25 to 6 50	6 25 to 6 50	6 25 to 6 50	6 00	2 50 to 2 75	3 25 to 3 37
February, 1884.....	2 87 to 3 00	3 50 to 6 62	3 12 to 3 75	3 12 to 3 75	3 12 to 3 75	6 00	2 50 to 2 75	1 50 to 2 25
February, 1885.....	3 50 to 4 87	4 50 to 6 00	5 50 to 6 25	5 50 to 6 25	5 50 to 6 25	6 00	3 00 to 3 25	1 87 to 2 00
March, 1881.....	5 25 to 5 50	2 25 to 2 75	3 00 to 3 50	3 00 to 3 50	3 00 to 3 50	6 00	2 75 to 3 00	1 25 to 1 60
March, 1882.....	2 00 to 2 75	2 25 to 2 75	3 00 to 3 50	3 00 to 3 50	3 00 to 3 50	6 00	2 75 to 3 00	4 25 to 4 75
March, 1883.....	3 37 to 3 50	5 30 to 5 12	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	2 00 to 2 50
April, 1881.....	4 62 to 4 87	5 30 to 5 12	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	4 00 to 4 25
April, 1882.....	3 50 to 4 87	2 50 to 2 62	3 50 to 3 75	3 50 to 3 75	3 50 to 3 75	6 00	2 75 to 3 00	2 75 to 3 00
April, 1883.....	2 00 to 2 75	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	2 00 to 2 75
April, 1884.....	4 12 to 4 37	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
April, 1885.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
May, 1881.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
May, 1882.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
May, 1883.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
May, 1884.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
May, 1885.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
June, 1881.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
June, 1882.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
June, 1883.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
June, 1884.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
June, 1885.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
July, 1881.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
July, 1882.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
July, 1883.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
July, 1884.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
July, 1885.....	3 75 to 4 62	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
August, 1881.....	3 12 to 3 50	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
August, 1882.....	3 12 to 3 50	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
August, 1883.....	3 12 to 3 50	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
August, 1884.....	3 12 to 3 50	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
August, 1885.....	3 12 to 3 50	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
September, 1881.....	3 12 to 3 50	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
September, 1882.....	3 12 to 3 50	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75
September, 1883.....	3 12 to 3 50	3 50 to 3 62	2 75 to 3 00	2 75 to 3 00	2 75 to 3 00	6 00	2 75 to 3 00	1 50 to 1 75

ed, &c.—Continued.

ed.

Total.

Total value.

ns of the inspector-general.

Table showing the fluctuations of several of the leading varieties of fish at Boston for five years commencing January, 1831—Continued.

Month and year.	Large pickled Bank cod.	Large dry Bank cod.	Large pickled Shore cod.	Large dry Shore cod.	Large dry French cod.	Large New- foundland cod.	Small pickled Bank cod.	Hake.
September, 1831.	Per quintal, 3 00 to 3 50	Per quintal, 3 00 to 3 50	Per quintal, 3 00 to 3 50	Per quintal, 3 25 to 3 50	Per quintal, 3 00 to 3 50	Per quintal, 4 00	Per quintal, 2 50 to 3 00	Per quintal, 2 50 to 3 00
October, 1831.	4 00 to 4 50	4 25 to 4 50	3 25 to 3 50	3 25 to 3 50	3 00	5 00	2 50 to 3 00	2 00 to 2 50
November, 1831.	3 75 to 4 00	4 00 to 4 50	3 00 to 3 50	3 00 to 3 50	6 25	7 00	2 50 to 3 00	3 25 to 3 50
December, 1831.	3 50 to 3 75	3 75 to 4 00	2 75 to 3 00	2 75 to 3 00	3 75 to 4 00	6 00	2 50 to 3 00	2 50 to 3 00
January, 1832.	3 25 to 3 50	3 50 to 3 75	2 50 to 2 75	2 50 to 2 75	3 75 to 4 00	5 75	2 50 to 3 00	2 50 to 3 00
February, 1832.	3 00 to 3 25	3 25 to 3 50	2 25 to 2 50	2 25 to 2 50	3 75 to 4 00	5 50	2 50 to 3 00	2 50 to 3 00
March, 1832.	2 75 to 3 00	3 00 to 3 25	2 00 to 2 25	2 00 to 2 25	3 75 to 4 00	5 25	2 50 to 3 00	2 50 to 3 00
April, 1832.	2 50 to 2 75	2 75 to 3 00	1 75 to 2 00	1 75 to 2 00	3 75 to 4 00	5 00	2 50 to 3 00	2 50 to 3 00
May, 1832.	2 25 to 2 50	2 50 to 2 75	1 50 to 1 75	1 50 to 1 75	3 75 to 4 00	4 75	2 50 to 3 00	2 50 to 3 00
June, 1832.	2 00 to 2 25	2 25 to 2 50	1 25 to 1 50	1 25 to 1 50	3 75 to 4 00	4 50	2 50 to 3 00	2 50 to 3 00
July, 1832.	1 75 to 2 00	2 00 to 2 25	1 00 to 1 25	1 00 to 1 25	3 75 to 4 00	4 25	2 50 to 3 00	2 50 to 3 00
August, 1832.	1 50 to 1 75	1 75 to 2 00	75 to 1 00	75 to 1 00	3 75 to 4 00	4 00	2 50 to 3 00	2 50 to 3 00
September, 1832.	1 25 to 1 50	1 50 to 1 75	50 to 75	50 to 75	3 75 to 4 00	3 75	2 50 to 3 00	2 50 to 3 00
October, 1832.	1 00 to 1 25	1 25 to 1 50	25 to 50	25 to 50	3 75 to 4 00	3 50	2 50 to 3 00	2 50 to 3 00
November, 1832.	75 to 1 00	1 00 to 1 25	0 to 25	0 to 25	3 75 to 4 00	3 25	2 50 to 3 00	2 50 to 3 00
December, 1832.	50 to 75	75 to 1 00	0 to 25	0 to 25	3 75 to 4 00	3 00	2 50 to 3 00	2 50 to 3 00
January, 1833.	25 to 50	50 to 75	0 to 25	0 to 25	3 75 to 4 00	2 75	2 50 to 3 00	2 50 to 3 00
February, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	2 50	2 50 to 3 00	2 50 to 3 00
March, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	2 25	2 50 to 3 00	2 50 to 3 00
April, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	2 00	2 50 to 3 00	2 50 to 3 00
May, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	1 75	2 50 to 3 00	2 50 to 3 00
June, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	1 50	2 50 to 3 00	2 50 to 3 00
July, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	1 25	2 50 to 3 00	2 50 to 3 00
August, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	1 00	2 50 to 3 00	2 50 to 3 00
September, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	75	2 50 to 3 00	2 50 to 3 00
October, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	50	2 50 to 3 00	2 50 to 3 00
November, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	25	2 50 to 3 00	2 50 to 3 00
December, 1833.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
January, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
February, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
March, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
April, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
May, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
June, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
July, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
August, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
September, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
October, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
November, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00
December, 1834.	0 to 25	25 to 50	0 to 25	0 to 25	3 75 to 4 00	0	2 50 to 3 00	2 50 to 3 00

Table showing the fluctuations of several of the leading varieties of fish at Boston for five years commencing January, 1881—Continued.

Month and year.	Haddock.	Cusk.	Pickled pollock.	Slack salted pollock.	Large Nova Scotia split herring.	No. 1 box herring.	Medium salted herring.	Large scaled herring.	Bloaters.
January, 1881.....						Per box, \$0 14	Per box, \$0 18	Per box, \$0 10	Per box, \$0 50
January, 1882.....						14	17	13	13
January, 1883.....						20	24	18	18
January, 1884.....						13	14	12	12
January, 1885.....						10	12	10	10
February, 1881.....		\$2 50	\$1 50		4 25 to 4 50	14	18	16	16
February, 1882.....			3 12		5 62	15	18	14	14
February, 1883.....			3 25 to 3 50		6 00	15	26	18	18
February, 1884.....			2 50		5 00	13	15 to 16	13	13
February, 1885.....			1 75		4 37 1/2	8 to 10	12 to 13	10	10
March, 1881.....	2 25		3 12	2 50		16	20 to 24	17	17
March, 1882.....	2 50		3 12	2 50		15	20 to 24	17	17
March, 1883.....	2 50		3 12	3 88		13	16	13	13
March, 1884.....					4 00 to 4 75	13 to 15	15 to 17	16	16
March, 1885.....					5 00	14	16 to 16 1/2	12 1/2	12 1/2
April, 1881.....				3 55 to 2 90		22	28	22	22
April, 1882.....				3 55 to 3 75		13	16	13	13
April, 1883.....						8 to 10	10 1/2 to 11 1/2	10	10
April, 1884.....			1 60	2 00		14	17	15	15
April, 1885.....			2 25	3 12		14	17	14	14
May, 1881.....			2 12	3 87		22	22	20	20
May, 1882.....			2 12			12	16	13	13
May, 1883.....			2 50			8	10 to 13	9 to 10	9 to 10
May, 1884.....						14	16	14	14
May, 1885.....						15	18 1/2	14	14
June, 1881.....	2 00 to 2 40	2 25	2 37	2 75 to 3 00		22 to 22 1/2	23 to 29	24 to 25	24 to 25
June, 1882.....	2 25	3 25 to 3 50	3 12	2 75 to 3 00		10	10 to 13	10	10
June, 1883.....	2 50 (new)		2 00	2 25		8 to 10	10 to 13	13 to 14	13 to 14
June, 1884.....			1 50 to 2 00	3 00		12	15	12	12
June, 1885.....						23	28 1/2	24	24
July, 1881.....	1 50 to 1 75		2 00	3 75		10	16	10	10
July, 1882.....	2 50 to 3 00	3 00	2 00			8 to 9	12 to 13	10	10
July, 1883.....						15	20	12	12
July, 1884.....						16	20	12	12
July, 1885.....						23	30	23	23
August, 1881.....						11	16	11	11
August, 1882.....						15	22 to 23	12 to 13	12 to 13
August, 1883.....						14			
August, 1884.....									
August, 1885.....									
September, 1881.....	2 00 to 2 25	2 25 to 2 37	1 75	2 25 to 2 50					

Table showing the fluctuations of several of the leading varieties of fish at Boston, for five years commencing January, 1881—Continued.

Month and year.	Headlock.	Cusk.	Pickled pollock.	Slack salted pollock.	Large Nova Scotia split herring.	No. 1 box herring.	Medium scaled herring.	Large scaled herring.	Bloaters.
September, 1882.	Per quintal. 3 50	Per quintal. 2 75 to 3 12	Per quintal. 3 62	Per quintal. 3 75 to 4 00	Per barrel. 5 00	Per box. 13	Per box. 23	Per box. 15	Per box.
September, 1883.	2 00	2 00	2 12	2 37 to 3 00	8 75 to 9 00	20	26	13	.....
September, 1884.	2 30 to 2 50	2 50	1 50	1 75 to 2 50	4 25	8 to 10	13 to 14	10	.....
September, 1885.	2 30 to 2 50	4 50	1 50	2 62 to 3 12	4 35 to 5 75	10	15	12 to 13	.....
October, 1881.	1 75 to 2 00	1 75	3 25 to 3 75	4 60 to 4 87	3 87	16	20 to 22	13 1/2	45
October, 1882.	1 75 to 2 00	1 75	3 25 to 3 75	3 60 to 3 85	3 50	17	23	17	60
October, 1883.	1 75 to 2 00	1 75	3 25 to 3 75	3 60 to 3 85	3 50	18	23	17	75
October, 1884.	1 75 to 2 00	1 75	3 25 to 3 75	3 60 to 3 85	3 50	18	23	17	60 to 65
October, 1885.	1 75 to 2 00	1 75	3 25 to 3 75	3 60 to 3 85	3 50	18	23	17	50 to 90
November, 1881.	2 62 to 2 75	2 75 to 3 12	3 75	3 75 to 4 00	5 00	16	24 to 14	12	70 to 75
November, 1882.	2 62 to 2 75	2 75 to 3 12	3 75	3 75 to 4 00	5 75	17	20 to 25	18	70 to 75
November, 1883.	2 62 to 2 75	2 75 to 3 12	3 75	3 75 to 4 00	6 00	17	20 to 25	18	70 to 75
November, 1884.	2 62 to 2 75	2 75 to 3 12	3 75	3 75 to 4 00	6 00	17	20 to 25	18	70 to 75
November, 1885.	2 62 to 2 75	2 75 to 3 12	3 75	3 75 to 4 00	6 00	17	20 to 25	18	70 to 75
December, 1881.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	7 to 10	12 to 13	10 to 11	40 to 65
December, 1882.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	45 to 50
December, 1883.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
December, 1884.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
December, 1885.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
January, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
February, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
March, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
April, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
May, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
June, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
July, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
August, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
September, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
October, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
November, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70
December, 1886.	3 62	3 62	1 50 to 1 75	3 25 to 3 87	4 50	14	13	14	65 to 70

... prices paid by Boston fish dealers from 1853 to 1885, inclusive.

Year.	M. Hotel.					No. 1.	Uncalled.	Herrings.	Alewives.	Codfish.	Salmon.	Trout.
	No. 2.	No. 3.	No. 4.	No. 5.								
1863	100	100	100	100	100	100	100	100	100	100	100	100
1864	100	100	100	100	100	100	100	100	100	100	100	100
1865	100	100	100	100	100	100	100	100	100	100	100	100
1866	100	100	100	100	100	100	100	100	100	100	100	100
1867	100	100	100	100	100	100	100	100	100	100	100	100
1868	100	100	100	100	100	100	100	100	100	100	100	100
1869	100	100	100	100	100	100	100	100	100	100	100	100
1870	100	100	100	100	100	100	100	100	100	100	100	100
1871	100	100	100	100	100	100	100	100	100	100	100	100
1872	100	100	100	100	100	100	100	100	100	100	100	100
1873	100	100	100	100	100	100	100	100	100	100	100	100
1874	100	100	100	100	100	100	100	100	100	100	100	100
1875	100	100	100	100	100	100	100	100	100	100	100	100
1876	100	100	100	100	100	100	100	100	100	100	100	100
1877	100	100	100	100	100	100	100	100	100	100	100	100
1878	100	100	100	100	100	100	100	100	100	100	100	100
1879	100	100	100	100	100	100	100	100	100	100	100	100
1880	100	100	100	100	100	100	100	100	100	100	100	100
1881	100	100	100	100	100	100	100	100	100	100	100	100
1882	100	100	100	100	100	100	100	100	100	100	100	100
1883	100	100	100	100	100	100	100	100	100	100	100	100
1884	100	100	100	100	100	100	100	100	100	100	100	100
1885	100	100	100	100	100	100	100	100	100	100	100	100
1886	100	100	100	100	100	100	100	100	100	100	100	100
1887	100	100	100	100	100	100	100	100	100	100	100	100
1888	100	100	100	100	100	100	100	100	100	100	100	100
1889	100	100	100	100	100	100	100	100	100	100	100	100
1890	100	100	100	100	100	100	100	100	100	100	100	100
1891	100	100	100	100	100	100	100	100	100	100	100	100
1892	100	100	100	100	100	100	100	100	100	100	100	100
1893	100	100	100	100	100	100	100	100	100	100	100	100
1894	100	100	100	100	100	100	100	100	100	100	100	100
1895	100	100	100	100	100	100	100	100	100	100	100	100
1896	100	100	100	100	100	100	100	100	100	100	100	100
1897	100	100	100	100	100	100	100	100	100	100	100	100
1898	100	100	100	100	100	100	100	100	100	100	100	100
1899	100	100	100	100	100	100	100	100	100	100	100	100
1900	100	100	100	100	100	100	100	100	100	100	100	100

Tonnage of vessels of the United States employed in the whale, cod, and mackerel fisheries, from 1860 to 1885, inclusive.

[From figures contained in the annual report of the Commissioner of Navigation.]

Year ending June 30—	Whale fisheries.	Cod fisheries.	Mackerel fisheries.	Total.
	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>
1860.....	168,841	136,683	26,111	329,635
1861.....	145,734	137,846	54,795	338,375
1862.....	117,714	133,601	80,596	331,911
1863.....	99,228	117,290	51,019	267,537
1864.....	95,145	103,742	55,490	254,377
1865 ¹	90,516	83,185	41,209	194,910
1866 ¹	105,170	51,642	46,589	203,401
1867.....	52,384	44,507	31,498	128,489
1868.....	71,343	83,887		155,230
1869.....	70,202	62,704		132,906
1870.....	67,964	91,460		159,424
1871.....	61,490	92,805		154,295
1872.....	51,608	97,545		149,153
1873.....	44,755	109,519		154,274
1874.....	39,108	78,290		117,398
1875.....	38,229	80,207		118,436
1876.....	39,116	87,802		126,918
1877.....	40,593	91,085		131,678
1878.....	39,700	86,547		126,247
1879.....	40,028	79,885		119,913
1880.....	38,408	77,538		115,946
1881.....	38,551	76,137		114,688
1882.....	32,802	77,803		110,605
1883.....	32,414	95,038		127,452
1884.....	27,249	82,940		110,189
1885.....	23,184	82,565		107,749

¹ The tonnage for 1865 and 1866 is partly by new measurement and partly by old.

NOTE.—The mackerel licenses have not been issued separately since 1867, when a general fishing license was provided to replace cod and mackerel fisheries.

and mackerel fisheries,

(Navigation.)

1	Mackerel	Total.
1	fisheries.	
2.	Tons.	Tons.
653	26,111	329,665
846	54,795	338,375
601	80,596	331,911
290	51,019	267,537
742	55,499	254,286
185	41,209	196,910
642	40,589	223,461
507	31,498	128,440
83,897		155,220
62,704		132,966
91,460		159,414
92,865		154,355
97,545		149,155
109,519		154,274
78,200		117,398
80,207		118,536
27,802		120,918
91,085		131,674
86,547		120,247
79,885		119,913
77,538		115,948
76,137		114,688
77,863		110,655
95,638		127,452
82,940		110,189
82,565		107,749

partly by old.
67, when a general fishing

House Ex. Doc. No. 153, Forty-ninth Congress, second session.

AMERICAN FISHERIES.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

Report from the Secretary of State, with accompanying correspondence between the Governments of the United States and Great Britain concerning the rights of American fishermen in the waters of British North America, supplementary to correspondence already communicated to Congress, December 8, 1886.

FEBRUARY 8, 1887.—Referred to the Committee on Foreign Affairs and ordered to be printed.

To the House of Representatives of the United States:

I transmit herewith, in response to a resolution of the House of Representatives of the 24th ultimo, a report of the Secretary of State, with accompanying copies of correspondence between the Governments of the United States and Great Britain concerning the rights of American fishermen in the waters of British North America, supplementary to the correspondence already communicated to Congress with my message of December 8, 1886.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, February 8, 1887.

To the President:

The undersigned, Secretary of State, has the honor to transmit to the President, with a view to their being communicated by him to the House of Representatives, the accompanying copies of correspondence which have taken place since December 8, 1886, and up to this date, between this Department and the Government of Great Britain, on the subject referred to in the annexed copy of the resolution of the House of Representatives, which was adopted on the 24th ultimo and referred by the President to this Department, where it was received on the 26th of the same month.

The prior correspondence during the year 1886, on the subject of the rights of American fishermen in the waters of British North America, between the representatives of the two Governments, was communicated



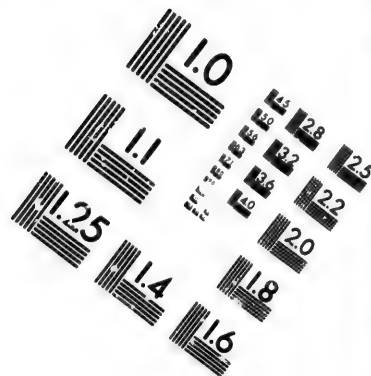
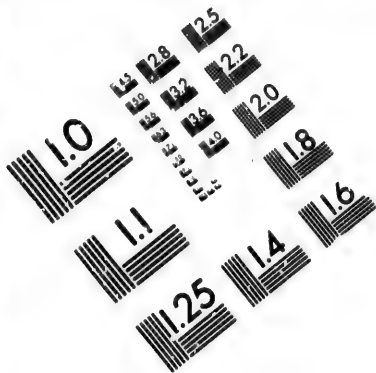
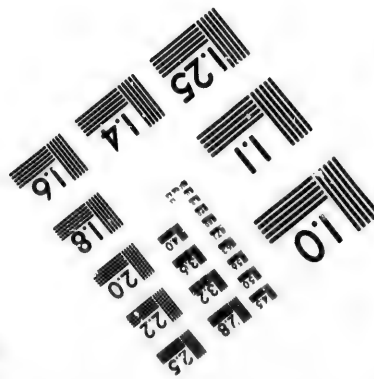
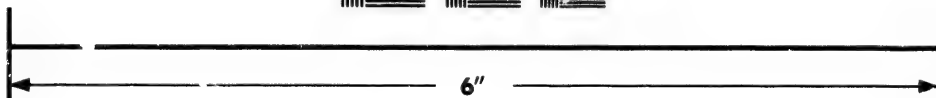
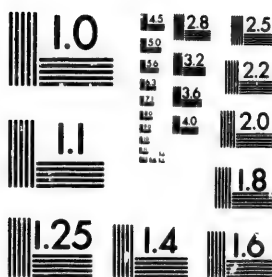


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to Congress on December 8, 1886, by your message of that date, and is contained in H. R. Executive Document No. 19, of the present session of Congress.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,
Washington, February 8, 1887.

[Forty-ninth Congress, second session.]

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
January 24, 1887.

Mr. Belmont, from the Committee on Foreign Affairs, submitted the following, which was agreed to:

Resolved, That the President be requested to transmit to the House copies of such correspondence, up to the present day, between this Government and the British Government as he may decide can now properly be made public, in regard to the deprivation inflicted in Canadian ports on American fishing vessels, having the right to touch and trade, of the liberty heretofore enjoyed by such vessels to enter Canadian ports open to foreign vessels and buy and sell and to transmit merchandise therein, and which is permitted in such ports to American trading vessels and to vessels of all other nationalities.

Attest:

JNO. B. CLARK, JR.,
Clerk.

LIST OF INCLOSURES.

I.—CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE BRITISH LEGATION IN WASHINGTON.

1. Mr. Bayard to Sir L. West, December 11, 1886.
2. Sir L. West to Mr. Bayard, December 24, 1886.
3. Sir L. West to Mr. Bayard, January 6, 1887 (with inclosures).
4. Sir L. West to Mr. Bayard, January 19, 1887 (with inclosures).
5. Mr. Bayard to Sir L. West, January 27, 1887 (with inclosures).
6. Sir L. West to Mr. Bayard, January 28, 1887.
7. Sir L. West to Mr. Bayard, January 28, 1887 (with inclosures).
8. Sir L. West to Mr. Bayard, January 28, 1887 (with an inclosure).

II.—CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE UNITED STATES LEGATION IN LONDON.

9. Mr. Bayard to Mr. Phelps (No. 458), November 12, 1886.
10. Mr. Phelps to Mr. Bayard (No. 393), December 3, 1886 (with inclosures).
11. Mr. Bayard to Mr. Phelps (No. 406), December 7, 1886.
12. Mr. Bayard to Mr. Phelps (No. 470), December 8, 1886.
13. Mr. Bayard to Mr. Phelps (No. 472), December 8, 1886 (with an inclosure).
14. Mr. Bayard to Mr. Phelps (No. 474), December 13, 1886.
15. Mr. Phelps to Mr. Bayard (No. 416), January 13, 1887 (with an inclosure).
16. Mr. Bayard to Mr. Phelps (No. 520), January 27, 1887.
17. Mr. Phelps to Mr. Bayard (No. 423), January 27, 1887 (with inclosures).
18. Mr. Bayard to Mr. Phelps (No. 524), February 1, 1887 (with inclosure).

III.—MISCELLANEOUS.

19. Mr. Hotchkiss to Mr. Porter (No. 95), January 3, 1887 (with an inclosure).

I.—CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE
AND THE BRITISH LEGATION IN WASHINGTON.

No. 1.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, December 11, 1886.

SIR: I have the honor to acknowledge your note of the 7th instant, with which you communicate, by the direction of the Earl of Iddesleigh, a copy of the report of a committee of the privy council of Canada, approved October 26 last, wherein the regret of the Canadian Government is expressed for the action of Captain Quigley, of the Canadian Government cruiser Terror, in lowering the flag of the United States fishing schooner Marion Grimes whilst under detention by the customs authorities, in the harbor of Shelburne, Nova Scotia, on October 11 last.

Before receiving this communication I had instructed the United States minister at London to make representation of this regrettable occurrence to Her Majesty's minister for foreign affairs, and desire now to express my satisfaction at the voluntary action of the Canadian authorities, which, it seems, was taken in October last, but of which I had no intimation until your note of the 7th instant was received.

I have, &c.,

T. F. BAYARD.

No. 2.

Sir L. West to Mr. Bayard.

WASHINGTON, December 24, 1886. (Received December 27.)

SIR: With reference to your note of the 11th ultimo, I have the honor to inform you that I am requested by the Earl of Iddesleigh to acquaint you that Her Majesty's Government have desired the Canadian Government to furnish them with a report on the circumstances attending the alleged inhospitable treatment of United States fishing schooners Laura Sayward and Jennie Seavers by the Canadian authorities.

I have, &c.,

L. S. SACKVILLE WEST.

No. 3.

Sir L. West to Mr. Bayard.

WASHINGTON, January 6, 1887. (Received January 7.)

SIR: With reference to your letters of the 19th and 20th October, I have the honor to transmit to you herewith reports from the Government of Canada relative to the cases of the United States fishing vessels Pearl Nelson and Everett Steele, which I have been instructed by the Earl of Iddesleigh to communicate to the United States Government.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure No. 1 in note of January 6.]

The Marquis of Lansdowne to Mr. Stanhope.

GOVERNMENT HOUSE, OTTAWA, November 29, 1886.

SIR: I have the honor to transmit herewith a copy of an approved minute of the privy council of Canada, furnishing the report asked for in your telegraphic message of the 6th November, with reference to the detention of the American schooner Everett Steele, at Shelburne, Nova Scotia, for an infraction of the customs regulations of the Dominion.

I have, &c.,

LANSDOWNE.

[Inclosure No. 2 in note of January 6.]

Report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general, in council on the 18th November, 1886.

The committee of the privy council are in receipt of a telegram from the right honorable the secretary of state for the colonies, in the words:

"United States Government protest against proceedings of Canadian authorities in the case of 'Pearl Nelson' and 'Everett Steele,' said to have put into Arichat and Shelburne, respectively, for purposes sanctioned by convention. Particulars by post. Send report soon as possible."

The minister of marine and fisheries, to whom the telegram was referred, submits that the schooner Everett Steele appears from the report of the collector of customs at Shelburne to have been at that port on the 25th March last, and sailed without reporting. On her return to Shelburne in September she was detained by the collector of customs for an infraction of the customs law.

The captain having assured the collector that he had been misled by the deputy harbor-master, who informed him his vessel could remain in port for twenty-four hours without entering, and that he had no intention of violating the customs regulations, this statement was reported to the minister of customs at Ottawa, when the vessel was at once allowed to proceed to sea, and that no evidence is given of any desire or intention of denying to the captain of the Everett Steele any treaty privileges he was entitled to enjoy.

The committee, concurring in the above, respectfully recommend that your excellency be moved to transmit a copy of this minute, if approved, to the right honorable the secretary of state for the colonies.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure No. 3 in note of January 6.]

The Marquis of Lansdowne to Mr. Stanhope.

GOVERNMENT HOUSE, OTTAWA, November 29, 1886.

SIR: With reference to your telegraphic message of the 6th instant, asking to be furnished with a report in the case of the "Pearl Nelson" and "Everett Steele," I have the honor to transmit herewith a copy of an approved minute of the privy council of Canada, embodying a report of my minister of marine and fisheries, to which is appended a copy of the correspondence which has passed between the commissioner of customs for Canada and the United States consul-general at Halifax relating to the case of the American schooner "Pearl Nelson."

I have, &c.,

LANSDOWNE.

[Inclosure No. 4 in note of January 6.]

Report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general in council, on the 18th November, 1886.

The committee of the privy council are in receipt of a telegram from the right honorable the secretary of state for the colonies, in the words:

"United States Government protest against proceedings of Canadian authorities in case of 'Pearl Nelson' and 'Everett Steele,' said to have put into Arichat and Shel-

burne, respectively, for purposes sanctioned by convention. Particulars by post. Send report soon as possible."

The minister of marine and fisheries, to whom the telegram was referred, submits a copy of a letter addressed by the commissioner of customs for Canada to the consul-general of the United States at Halifax, and also a copy of Mr. Phelan's reply thereto.

The minister submits that it is clear, from Captain Kempt's affidavit, that he was guilty of an infraction of the customs regulations in allowing men to land from his vessel before she had been reported, and the minister of customs having favorably considered Captain Kempt's representations as to his ignorance of the customs regulations requiring that vessels should be reported before landing either men or cargo therefrom has remitted the fine of \$200 which had been imposed in the case of the American schooner "Pearl Nelson."

The minister further submits that it would appear from the collector of customs' report that his remark that "he would seize the vessel" had reference solely to her violation of the customs law, and that no evidence is given of any desire or intention of denying to the captain of the "Pearl Nelson" any treaty privileges he was entitled to enjoy.

The committee, concurring in the above, respectfully recommend that your excellency be moved to transmit a copy of this minute, if approved, to the right honorable the secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council, Canada.

[Inclosure No. 5 in note of January 6.]

Mr. Parmelee to Mr. Phelan.

OTTAWA, October 22, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, re seizure of the American schooner "Pearl Nelson" for an infraction of the customs laws, &c.

The commissioner of customs' report in connection with this matter, which has been approved by the minister of customs, reads as follows:

"The undersigned, having examined this case, has come to the conclusion that the captain of the vessel did violate the provisions of sections 25 and 180 of 'the customs act, 1883,' by landing a number of his crew before going to the custom-house to report; that his plea of having come into port solely from stress of weather is inconsistent with the circumstances, and is denied by the collector of customs, who reports that 'the night was one of the finest and most moderate experienced there this summer,' and that 'his crew were landed only in the morning.' That even if the 'stress of weather' plea was sustained by facts it would not exempt him from the legal requirement of reporting his vessel before 'breaking bulk' or landing his crew, and it is evident that there was nothing to hinder his reporting, as the crew appear to have had no difficulty in handling the vessel's boats; that it was very easy for the crew or any of them to have taken valuable contraband goods ashore on their persons in the absence of any customs officer at the landing-place. Inasmuch, however, as there is no charge of actual smuggling preferred against the vessel, the undersigned respectfully recommends that the deposit of \$200 be refunded, deducting therefrom any expenses incurred.

"J. JOHNSON."

I trust the above may be considered a satisfactory answer to your letter referred to. I have, &c.,

W. G. PARMELEE,
Assistant Commissioner.

[Inclosure No. 6 in note of January 6.]

Mr. Phelan to Mr. Parmelee.

HALIFAX, November 2, 1886.

SIR: I have the honor to acknowledge the receipt of your communication of the 23d ultimo, concerning the action of the customs department of Canada in the case of the American schooner "Pearl Nelson," and to say I was much pleased at the decision arrived at in that case. I have informed the Government of the United States that the fine in the case referred to was ordered to be refunded.

I have also to say that the Department of State, in acknowledging the receipt of a dispatch from me setting forth that you had placed all the papers in the cases of the American schooners "Crittenden" and "Holbrook" in my hands for perusal, said "The attention of Mr. Parmelee in referring the matter to you is appreciated. It shows a proper spirit."

I trust the department of customs will pass on the other cases as soon as possible.
I have, &c.

M. H. PHELAN,
Consul-General.

No. 4.

Sir L. West to Mr. Bayard.

BRITISH LEGATION,
Washington, January 19, 1887. (Received January 21.)

SIR: With reference to your note of the 23d of September last, I have the honor to inclose to you herewith a copy of a dispatch from the governor-general of Canada to Her Majesty's secretary of state for the colonies, inclosing a report from his Government on the case of the United States fishing vessel Crittenden.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure No. 1 in note of January 19.]

Lord Lansdowne to Mr. Stanhope.

CANADA, GOVERNMENT HOUSE,
Ottawa, December 4, 1886.

SIR: In reply to your dispatch of the 12th of October last, transmitting a copy of a letter with its inclosure from the foreign office, requesting to be furnished with a report in the case of the United States fishing vessel "Crittenden," I have the honor to forward herewith a copy of an approved minute of the privy council of Canada embodying a report of my minister of marine and fisheries, to which is appended a statement of the customs officer at Steep Creek on the subject.

I have, &c.,

LANDSDOWNE.

[Inclosure No. 2 in note of January 19.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council, on the 16th November, 1886.

The committee of the privy council have had under consideration, a dispatch, dated 12th October, 1886, from the secretary of state for the colonies, transmitting a copy of a letter from Mr. Bayard, United States Secretary of State, to the British minister at Washington, calling attention to an alleged denial of the rights guaranteed by the convention of 1818 in the case of the American fishing schooner "Crittenden" by the customs officer at Steep Creek, in the Straits of Canso, Nova Scotia.

The minister of marine and fisheries, to whom the dispatch and inclosure were referred, submits a statement of the customs officer at Steep Creek, and observes that the captain of the "Crittenden" violated the customs laws by neglecting to enter his vessel, as requested by the customs officer, and in landing and shipping a man clearly exceeded any treaty provision he was entitled to avail himself of.

It would appear that the remark made by the customs officer "that he would seize the vessel" had reference solely to the captain's violation of the customs regulations, and, the minister submits, cannot be construed into a denial of any treaty privileges the master was entitled to enjoy.

The committee, concurring in the above, respectfully recommended that your excellency be moved to inform the right honorable the secretary of state for the colonies in the sense of the report of the minister of marine and fisheries.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

Inclosure No. 3 in note of January 19.]

STEEP CREEK, November 1, 1886.

SIR: Yours of the 28th of October came to hand to-day, and, in reply, can state to you that part of the crew of the schooner "Crittenden" came on shore at Steep Creek and landed their barrels and filled them with water. I went direct to the men who were filling the barrels, and told them to come and enter before taking wood and water. They said they would not enter or make any report. I told them that I would seize the schooner "Crittenden" for violating the customs laws. They said they would risk that, as the schooner was now out of the way about 3 miles from my station down the straits, and it was impossible for me to board the vessel. They also landed a man the same day with his effects, and on their return from Gloucester to the bay St. Lawrence they shipped a man. Was looking out for the vessel, but could not catch her. I reported the case to the collector of customs at Port Hawkesbury, and on the schooner "Crittenden's" return from the Bay St. Lawrence she was seized, and Collector Bourinot got the affidavits of the captain of the said schooner and also of some of the crew, which he stated to the department. I was in the office at the time when Collector Bourinot received a telegram from the department to release the schooner "Crittenden" on the deposit of \$400.

I remain, &c.,

JAMES H. CARR,
Pro Collector.

No. 5.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
Washington, January 27, 1887.

SIR: I have the honor to inclose a copy of an affidavit of the captain and two members of the crew of the schooner "Sarah H. Prior," of Boston, stating the refusal of the captain of the Canadian revenue cutter "Critic" to permit the restoration to the former vessel, in the port of Malpeque, Prince Edward's Island of her large seine, which she had lost at sea, and which had been found by the captain of a Canadian vessel, who offered to return the seine to the Prior, but was prevented from doing so by the captain of the "Critic."

This act of prevention, the reason for which is not disclosed, practically disabled the Prior, and she was compelled to return home without having completed her voyage, and in debt.

I have the honor to ask that Her Majesty's Government cause investigation of this case to be made.

I have, &c.,

T. F. BAYARD.

[Inclosure No. 1 in note of January 27.]

Mr. Prior to Mr. Bayard.

BOSTON, December 28, 1886.

DEAR SIR: I wrote to Senator W. P. Frye, setting forth in my letter the facts contained in the affidavit inclosed. He wrote me to have it sworn to and to send it to you, which I have done. Will you please let me know what course is best to pursue

in regard to it, whether to enter a claim or not? I think it is a clear, strong case, and the claim would be a just one, and will be pleased to receive your advice in the matter.

Yours, very truly,

P. H. PRIOR.

Hon. THOS. F. BAYARD,
Secretary of State.

[Inclosure No. 2 in note of January 27.]

Affidavit of the captain and crew of the schooner "Sarah H. Prior."

On this 28th day of December, A. D. 1886, personally appeared before me Captain Thomas McLaughlin, master, and George F. Little and Charles Finnegan, two of the crew, of the schooner "Sarah H. Prior," of Boston, and being duly sworn, signed and made oath to the following statement of facts:

On September 10, 1886, the schooner "Sarah H. Prior," while running for Malpeque, Prince Edward Island, and about seven miles from that port, lost her large seine. Four days afterwards the schooner "John Ingalls," of Halifax, N. S., Captain Wolfe, came into Malpeque and had the seine on board, which she had picked up at sea. Captain Wolfe offered to deliver the seine to Captain McLaughlin in consideration of twenty-five dollars, which offer the latter accepted and paid him the money. The Canadian revenue cutter "Critic," Captain McLearn, was lying at Malpeque at the time, and Captain McLaughlin went to see him, to ascertain if there would be any trouble in delivering the seine. Captain McLearn would not allow the captain of the "John Ingalls" to give up the seine, so the latter returned the twenty-five dollars to Captain McLaughlin.

The schooner "Sarah H. Prior" had two seines, one large and one small size. It was the large one which she lost and the schooner "John Ingalls" picked up. She had to leave Malpeque without it, and consequently came home with a broken voyage and in debt.

THOS. McLAUGHLIN.
GEORGE F. LITTLE.
CHARLES FINNEGAN.

SUFFOLK, ss :

BOSTON, December 28, 1886.

Personally appeared before me Thomas McLaughlin, George F. Little, and Charles Finnegan, who signed and made oath that the foregoing statement was true.

[SEAL.]

CHARLES W. HALLSTRAIN,
Notary Public.

No. 6.

Sir L. West to Mr. Bayard.

WASHINGTON, January 28, 1887. (Received January 29.)

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, and to inform you that I have submitted the case of the American schooner "Sarah H. Prior" to Her Majesty's Government for investigation, as requested by you.

I have, &c.,

L. S. SACKVILLE WEST.

No. 7.

Sir L. West to Mr. Bayard.

WASHINGTON, January 28, 1887. (Received January 29.)

SIR: With reference to your note of the 20th of May last, I have the honor to transmit to you herewith copy of a report by the minister of justice of the Dominion of Canada upon the seizure of the American

fishing vessel "David J. Adams," which I am instructed by Her Majesty's principal secretary of state for foreign affairs to communicate to the United States Government.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosures in note of January 24.]

Governor-General the most honorable the Marquis of Lansdowne, K. C. M. G., to the right honorable Edward Stanhope, M. P.

GOVERNMENT HOUSE, OTTAWA,
November 9, 1886. (Received November 22.)

SIR: With reference to Earl Granville's dispatch of the 24th June last, respecting the fisheries question and inclosing copies of two letters from the foreign office and one from the United States minister in London, addressed to the secretary of state for foreign affairs, I have the honor to transmit herewith a copy of an approved minute of the privy council of Canada concurring in a report of the minister of justice dealing with the points raised by Mr. Phelps in his note of the 2d June last on the subject of the seizure of the United States fishing vessel David J. Adams, near Digby, Nova Scotia.

I have, &c.,

LANSDOWNE.

Certified copy of a report of a committee of the honorable the privy council for Canada, approved by his excellency the administrator of the Government in council on the 2d November, 1886.

The Committee of the privy council have had under consideration a dispatch dated 24th June, 1886, from the right honorable the secretary of state for the colonies respecting the fisheries question, and inclosing copies of letters on the subject from the foreign office to the colonial office, and of one from Mr. Phelps to the secretary of state for foreign affairs.

The minister of justice, to whom the dispatch and inclosures were referred, submits a report thereon herewith.

The committee concur in the said report, and advise that your Excellency be moved to transmit a copy thereof, if approved, to the right honorable the secretary of state for the colonies.

All of which is submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council, Canada.

DEPARTMENT OF JUSTICE, OTTAWA,
July 22, 1886.

To his Excellency the Administrator of the Government in Council:

With reference to the dispatch of the 24th June last from the secretary of state for the colonies to your excellency, respecting the fisheries question, and inclosing copies of letters on the subject from the foreign office to the colonial office and of one from Mr. Phelps to the secretary of state for foreign affairs, the undersigned has the honor to report as follows:

The letter of Mr. Phelps seems designed to present to Earl Rosebery the case of the David J. Adams, the fishing vessel seized a short time ago near Digby, in the Province of Nova Scotia.

Mr. Phelps intimates that he has received from his Government a copy of the report of the consul-general of the United States at Halifax, giving full details and depositions relating to the seizure, and that that report and the evidence annexed to it, appear fully to sustain the points which he had submitted to Earl Rosebery at an interview which he had had a short time before the date of his letter.

The report of the consul-general and the depositions referred to seem not to have been presented to Earl Rosebery, and their contents can only be inferred from the statements made in Mr. Phelps's letter.

These statements appear to be based on the assertions made by the persons interested in the vessel by way of defense against the complaint under which she was

seized, but cannot be regarded as presenting a full or accurate representation of the case. The undersigned submits the facts in regard to this vessel as they are alleged by those on whose testimony the Government of Canada can rely to sustain the seizure and detention.

THE OFFENSE AS TO THE TREATY AND FISHERY LAWS.

The David J. Adams was a United States fishing vessel. Whether, as alleged in her behalf, her occupation was deep-sea fishing or not, and whether, as suggested, she had not been engaged, nor was intended to be engaged, in fishing in any limit prescribed by the treaty of 1818 or not, are questions which do not, in the opinion of the undersigned, affect the validity of the seizure, and of the proceedings subsequent thereto, for reasons which will be hereafter stated, but in so far as they may be deemed material to the defense they are questions of fact, which remain to be proved in the vice-admiralty court at Halifax, in which the proceedings for the vessel's condemnation are pending, and in respect of which proof is now being taken, and inasmuch as the trial has not been concluded (much less a decision reached), it is perhaps premature for Mr. Phelps to claim the restoration of the vessel, and to assert a right to damages for her detention, on the assumption of the supposed facts before referred to.

It is alleged in the evidence on behalf of the prosecution that the David J. Adams, being a United States fishing vessel, on the morning of the 5th of May, 1886, was in what is called the Annapolis Basin, which is a harbor on the northwest coast of Nova Scotia. She was several miles within the Basin, and the excuse suggested (that the captain and crew may have been there through a misapprehension as to the locality) by the words of Mr. Phelps's letter, "Digby is a small fishing settlement, and its harbor not defined," is unworthy of much consideration.

Digby is not a fishing settlement, although some of the people on the neighboring shores engage in fishing. It is a town with a population of about 2,000 persons. Its harbor is formed by the Annapolis Basin, which is a large inlet of the Bay of Fundy, and the entrance to it consists of a narrow strait marked by conspicuous headlands, which are little more than a mile apart. The entrance is called "Digby Gut," and for all purposes connected with this inquiry the harbor is one of the best defined in America.

The David J. Adams was, on the morning of the 5th day of May, 1886, as has already been stated, several miles within the Gut. She was not there for the purpose of "shelter," or "repairs," nor to "purchase wood," nor to obtain water. She remained there during the 5th and the 6th of May, 1886; she was lying at anchor about half a mile from the shore, at a locality called "Clements West."

On the morning of the 6th of May, 1886, the captain made application to the owners of a fishing weir near where he was laying for bait, and purchased 4½ barrels of that article. He also purchased and took on board about 2 tons of ice. While waiting at anchor for these purposes the name of the vessel's "hailing place" was kept covered by canvas, and this concealment continued while she afterwards sailed down past Digby.

One of the crew represented to the persons attending the weir that the vessel belonged to the neighboring Province of New Brunswick. The captain told the owner of the weir, when the treaty was spoken of by the latter, that the vessel was under British register. The captain said he would wait until the next morning to get more bait from the catch in the weir which was expected that day. At daybreak, however, on the morning of the 7th of May, 1886, the Government steamer Lansdowne arrived off Digby, and the David J. Adams got under way without waiting to take in the additional supply of bait, and sailed down the Basin towards the Gut.

Before she had passed Digby she was boarded by the first officer of the Lansdowne, and to him the captain made the following statement: That he had come to that place to see his people, as he had formerly belonged there, that he had no fresh bait on board, and that he was from the "Banks," and bound for Eastport, Me. The officer of the Lansdowne told him he had no business there, and asked him if he knew the law. His reply was, "Yes."

A few hours afterwards, and while the David J. Adams was still inside the Gut, the officer of the Lansdowne, ascertaining that the statements of the captain were untrue, and that bait had been purchased by him within the harbor on the previous day, returned to the David J. Adams, charged the captain with the offense, and received for his reply the assertion that the charge was false, and that the person who gave the information was a "liar."

The officer looked into the hold of the vessel and found the herring which had been purchased the day before, and which, of course, was perfectly fresh; but the captain declared that this "bait" was ten days old.

The officer of the Lansdowne returned to his ship, reported the facts, and went again to the Adams, accompanied by another officer, who also looked at the bait. Both returned to the Lansdowne, and then conveyed to the Adams the direction that

to representation of the vessel as they are alleged to sustain the seizure.

KEY LAWS.

Whether, as alleged in the proceedings subsequent to the seizure, or the vessel's condemnation taken, and inasmuch as it is perhaps precluded from asserting a right to facts before referred to, the David J. Adams, 5th of May, 1886, was in the northwest coast of the province of New Brunswick, and the fishing settlement, and

people on the neighboring coast about 2,000 persons. Its outlet of the Bay of Fundy, very conspicuous headlands, called "Digby Gut," and one of the best defined in

May, 1886, as has been noted there for the purpose of obtaining water. She was lying at anchor about West."

application to the owners purchased 4½ barrels of that of ice. While waiting for a "fishing place" was kept covered afterwards sailed down

weir that the vessel before the captain told the owner that the vessel was under next morning to get more day. At daybreak, however, steamer Lansdowne without waiting to take towards the Gut.

officer of the Lansdowne, that he had come to that place that he had no fresh bait on Eastport, Me. The officer asked him if he knew the

was still inside the Gut, and the captain were in the harbor on the previous day with the offense, and reported, and that the person who

the herring which had been freshly fresh; but the captain

reported the facts, and went to also looked at the bait. The Adams the direction that

she should come to Digby and anchor near the Lansdowne. This was, in fact, the seizure.

These are the circumstances by which the seizure was, in the opinion of Mr. Phelps, "much aggravated," and which make it seem very apparent to him that the seizure "was not made for the purpose of enforcing any right or redressing any wrong."

The fact that the seizure was preceded by visitations and searches was due to the statements of the master and the reluctance of the officers of the Lansdowne to enforce the law until they had ascertained to a demonstration that the offense had been committed and that the captain's statements were untrue.

THE OFFENSE AS TO CUSTOMS LAWS.

The David J. Adams, as already stated, was in harbor upwards of forty-eight hours, and when seized was proceeding to sea without having been reported at any customs-house. Her business was not such as to make it her interest to attract the attention of the Canadian authorities, and it is not difficult, therefore, to conjecture the reason why she was not so reported, or to see that the reason put forward, that Digby is but "a small fishing settlement and its harbor not defined," is a disingenuous one. In going to the weir to purchase bait the vessel passed the custom-house at Digby almost within hailing distance. When at the weir she was within 1 or 2 miles of another custom-house (at Clementsport), and within about 15 miles of another (at Annapolis). The master has not asserted that he did not know the law on this subject, as it is established that he knew the law in relation to the restriction on foreign fishing vessels.

The provisions of the customs act of Canada on this subject are not essentially different from those of his own country. The captain and crew were ashore during the 5th and 6th of May, 1886. The following provisions of the customs act of Canada apply:

"The master of every vessel coming from any port or place out of Canada, or coast-wise, and entering any port in Canada, whether laden or in ballast, shall go without delay, when such vessel is anchored or moored, to the custom-house for the port or place of entry where he arrives, and there make a report in writing to the collector or other proper officer of the arrival and voyage of such vessel, stating her name, country, and tonnage, the port of registry, the name of the master, the country of the owners, the number and names of the passengers, if any, the number of the crew, and whether the vessel is laden or in ballast, and, if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stowed loose, and where and to whom consigned, and where any and what goods, if any, have been laden or unladen, or bulk has been broken, during the voyage, what part of the cargo, and the number and names of the passengers which are intended to be landed at that port, and what and whom at any other port in Canada, and what part of the cargo, if any, is intended to be exported in the same vessel, and what surplus stores remain on board as far as any of such particulars are or can be known to him." (46 Vic., cap. 12, sec. 25.)

"The master shall at the time of making his report, if required by the officer of customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall make and subscribe an affidavit referring to his report, and declaring that all the statements made in the report are true, and shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as are demanded of him by such officer, and shall, if required, make the substance of any such answer part of his report." (46 Vic., cap. 12, sec. 25.)

"If any goods are unladen from any vessel before such report is made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions demanded of him, as provided in the next preceding section, he shall incur a penalty of \$400, and the vessel may be detained until such penalty is paid." (46 Vic., cap. 12, sec. 28.)

PROCEEDINGS FOLLOWING THE SEIZURE.

These have been made the subject of complaint by Mr. Phelps, although the explanations which were given in the previous memorandum of the undersigned (in reference to the letters of Mr. Bayard to her majesty's minister at Washington), and in the report on the same subject of the minister of marine and fisheries, laid before his excellency the governor-general on the 14th June ultimo, coupled with a disavowal, by the Canadian Government, of any intention that the proceedings in such cases should be unnecessarily harsh or pursued in a punitive spirit, might have been expected to be sufficient. After the seizure was made, the commander of the Lansdowne took the David J. Adams across the Bay of Fundy to St. John, a distance of about forty miles. He appears to have had the impression that, as his duties

would not permit him to remain at Digby, the vessel would not be secure from rescue, which has in several cases occurred after the seizure of fishing vessels. He believed she would be more secure in the harbor of St. John, and that the legal proceedings, which in due course would follow, could be taken there. He was immediately directed, however, to return with the vessel to Digby, as it seemed more in order, and more in compliance with the statutes relating to the subject, that she should be detained in the place of seizure, and that the legal proceeding should be taken in the vice-admiralty court of the province where the offense was committed. It does not seem to be claimed by the United States authorities that any damage to the vessel, or that any injury or inconvenience to any one concerned, was occasioned by this removal to St. John, and by her return to Digby, occupying as they did but a few hours, and yet this circumstance seems to be relied on as "aggravating the seizure" and as depriving it of the character of a seizure made "to enforce a right or to redress a wrong."

Another ground of complaint is that in Digby, "the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such a manner as to prevent its contents being read" and that "the request of the captain, and of the United States consul-general, to be allowed to detach the writ from the mast, for the purpose of learning its contents was positively refused by the provincial official in charge; that the United States' consul-general was not able to learn from the commander of the Lansdowne the nature of the complaint against the vessel, and that his respectful application to that effect was fruitless."

(1) As to the position of the paper on the mast. It is not a fact that it was nailed to the vessel's mast "in such a manner as to prevent its contents being read." It was nailed there for the purpose of being read, and could have been read.

(2) As to the refusal to allow it to be detached, such refusal was not intended as a discourtesy, but was legitimate and proper. The paper purported to be, and was, a copy of the writ of summons and warrant, which were then in the registry of the vice-admiralty court at Halifax. It was attached to the mast by the officer of the court, in accordance with the rules and procedure of that court. The purposes for which it was so attached did not admit of any consent for its removal.

(3) As to the desire of the captain and of the United States consul-general to ascertain the contents of the paper, the original was in the registry of the court, accessible to every person, and the registry is within eighty yards of the consul-general's office. All the reasons for the seizure and detention were made, however, to the captain, days before the paper arrived to be placed on the mast, and, before the consul-general arrived at Digby, these reasons were not only matters of public notoriety, but had been published in the newspapers of the province, and in hundreds of other newspapers circulating throughout Canada and the United States. The captain and the consul-general did not need, therefore, to take the paper from the mast in order to learn the causes of the seizure and detention.

(4) As to the application of the consul-general having been fruitless, the fact has transpired that he had reported the seizure and its causes to his Government before the application was made. It has been already explained in the previous memorandum of the undersigned, and in the report of the minister of marine and fisheries, that the application was for a specific statement of the charges, and that it was made to an officer who had neither the legal acquirements nor the authority to state them in a more specific form than that in which he had already stated them. The commander of the Lansdowne requested the consul-general to make his request to the minister of marine and fisheries, and, if he had done so, the specific statement which he had desired could have been furnished in an hour. It is hoped that the explanation already made, and the precautions which have been taken against even the appearance of discourtesy in the future, will, on consideration, be found to be satisfactory.

INCIDENTS OF THE CUSTOMS' SEIZURE.

Mr. Phelps presents the following views with respect to the claim that the David J. Adams besides violating the treaty and the statutes relating to "fishing by foreign vessels" is liable to be detained for the penalty under the customs law.

(1) That this claim indicates the consciousness that the vessel could not be forfeited for the offense against the treaty and fishing laws. This supposition is groundless. It is by no means uncommon in legal proceedings, both in Canada and the United States, for such proceedings to be based on more than one charge, although any one of the charges would in itself, if sustained, be sufficient for the purpose of the complainant. The success of this litigation, like that of all litigation, must depend not merely on the rights of the parties but on the proof which may be adduced as to a right having been infringed. In this instance it appears from Mr. Phelps's letter that the facts which are to be made the subject of proof are evidently in dispute, and the Government of Canada could, with propriety, assert both its claims, so that both of them should not be lost by any miscarriage of justice in regard to one of

them. This was likewise the proper course to be taken, in view of the fact that an appeal might at any time be made to the Government by the owners of the David J. Adams for remission of the forfeiture incurred in respect of the fishery laws. The following is a section of the Canadian statute relating to fishing by foreign vessels:

"In cases of seizure under this act, the governor in council may direct a stay of proceedings, and in cases of condemnation may relieve from the penalty in whole or in part, and on such terms as are deemed right." (31 Vic., cap. 61, sec. 19.)

It seemed necessary and proper to make at once any claim founded on infraction of the customs laws, in view of the possible termination of the proceedings by executive interference under this enactment. It would surely not be expected that the Government of Canada should wait until the termination of the proceedings under the fishery acts, before asserting its claim to the penalty under the customs act. The owners of the offending vessel and all concerned were entitled to know as soon as they could be made aware what the claims of the Government were in relation to the vessel, and they might fairly urge that any which were not disclosed were waived.

(2) Mr. Phelps remarks that this charge is "not the one on which the vessel was seized" and "was an after-thought." The vessel was seized by the commander of the *Lansdowne* for a violation of the fishery laws before the customs authorities had any knowledge that such a vessel had entered into the port, or had attempted to leave it, and the commander was not aware at that time whether the David J. Adams had made proper entry or not. A few hours afterwards, however, the collector of customs at Digby ascertained the facts, and on the facts being made known to the head of his department at Ottawa, was immediately instructed to take such steps as might be necessary to assert the claim for the penalty which had been incurred. The collector did so.

(3) Mr. Phelps asserts that the charge of breach of the customs law is not the one which must now be principally relied on for condemnation. It is true that condemnation does not necessarily follow. The penalty prescribed is a forfeiture of \$400, on payment of which the owners are entitled to the release of the vessel. If Mr. Phelps means by the expression just quoted, that the customs offense cannot be relied on in respect to the penalty claimed, and that the vessel cannot be detained until that penalty is paid, it can only be said that in this contention the Canadian Government does not concur. Section 39 of the customs act, before quoted, is explicit on that point.

(4) It is also urged that the offense was, at most, "only an accidental and clearly technical breach of a custom-house regulation, by which no harm was intended, and from which no harm came, and would in ordinary cases be easily condoned by an apology, and perhaps payment of costs." What has already been said under the heading "the offense (as to the customs laws)" presents the contention opposed to the offense being considered as accidental." The master of the David J. Adams showed by his language and conduct that what he did he did with design, and with the knowledge that he was violating the laws of the country. He could not have complied with the customs law without frustrating the purposes for which he had gone into port.

As to the breach being a "technical" one, it must "be remembered that with thousands of miles of coast indented, as the coasts of Canada are, by hundreds of harbors and inlets, it is impossible to enforce the fishery law without a strict enforcement of the customs laws. This difficulty was not unforeseen by the framers of the treaty of 1818, who provided that the fishermen should be "under such restrictions as might be necessary to prevent their taking, drying, or curing fish * * * or in any other manner whatever abusing the privilege reserved to them." No naval force which could be equipped by the Dominion would of itself be sufficient for the enforcement of the fishery laws.

Foreign fishing vessels are allowed by the treaty to enter the harbors and inlets of Canada, but they are allowed to do so only for specified purposes. In order to confine them to those purposes it is necessary to insist on the observance of the customs laws, which are enforced by officers all along the coast. A strict enforcement of the customs laws, and one consistent with the treaty, would require that, even when coming into port for the purposes for which such vessels are allowed to enter our waters, a report should be made at the customs-house, but this has not been insisted on in all cases; when the customs laws are enforced against those who enter for other than legitimate purposes, and who choose to violate both the fishery laws and customs laws, the Government is far within its right, and should not be asked to accept an apology and payment of costs. It may be observed here, as affecting Mr. Phelps's demands for restoration and damages, that the apology and costs have never been tendered, and that Mr. Phelps seems to be of opinion that they are not called for.

(5) Mr. Phelps is informed by the consul-general at Halifax that it is "conceded by the customs authorities there that foreign fishing vessels have for forty years been

* Course?

accustomed to go in and out of the bay at pleasure, and he never been required to send ashore and report when they had no business with the port and made no landing, and that no seizure had ever before been made or claim against them for so doing." Nothing of this kind is or could be conceded by the customs authorities there or elsewhere in Canada.

The bay referred to, the Annapolis Basin, is like all the other harbors of Canada, except that it is unusually well defined and land-locked and furnished with customs-houses. Neither there nor anywhere else have foreign fishing vessels been accustomed to go in and out at pleasure without reporting. If they had been so permitted the fishery laws could not have been enforced, and there would have been no protection against illicit trading. While the reciprocity treaty of 1854 and the fishery clauses of the Washington treaty were in force, the convention of 1818 being, of course, suspended, considerable laxity was allowed to the United States fishing vessels, much greater than the terms of those treaties entitled them to, but the consul-general is greatly mistaken when he supposes that at other times the customs laws were not enforced, and that seizures of foreign fishing vessels were not made for omitting to report. Abundant evidence on this point can be had.

In 1839 Mr. Vail, the Acting Secretary of State (United States) reported that most of the seizures, which then were considered numerous, were for alleged violation of the customs laws (Papers relating to the Treaty of Washington, vol. vi, p. 283, Washington edition). From a letter of the United States consul at Charlottetown, dated August 19, 1870, to the United States consul-general at Montreal, it appears that it was the practice of the United States fishermen at that time to make regular entry at the port to which they resorted. The consul said, "Here the fishermen enter and clear, and take out permits to land their mackerel from the collector, and as their mackerel is a free article in this island, there can be no illicit trade."

In the year 1870, two United States fishing vessels, the H. W. Lewis and the Granada, were seized on like charges in Canadian waters.

What Mr. Phelps styles "a custom-house regulation" is an act of the Parliament of Canada, and has for many years been in force in all the provinces of the Dominion. It is one which the Government cannot at all alter or repeal, and which its officers are not at liberty to disregard.

(6) It is suggested, though not asserted, in the letter of Mr. Phelps, that the penalty cannot reasonably be insisted on, because a new rule has been suddenly adopted without notice. The rule, as before observed, is not a new one, nor is its enforcement a novelty. As the Government of the United States choose to put an end to the arrangement under which the fishermen of that country were accustomed to frequent Canadian waters with so much freedom, the obligation of giving notice to those fishermen that their rights were thereafter, by the action of their own Government, to be greatly restricted, and that they must not infringe the laws of Canada, was surely a duty incumbent on the Government of the United States rather than on that of Canada. This point cannot be better expressed than in the language reported to have been recently used by Mr. Bayard, the United States Secretary of State, in his reply to the owners of the *George Cushing*, a vessel recently seized on a similar charge: "You are well aware that questions are now pending between this Government and that of Great Britain in relation to the justification of the rights of American fishing vessels in the territorial waters of British North America, and we shall relax no effort to arrive at a satisfactory solution of the difficulty. In the meantime it is the duty and manifest interest of all American citizens entering Canadian jurisdiction to ascertain and obey the laws and regulations there in force. For all unlawful depredations of property or commercial rights this Government will expect to procure redress and compensation for the innocent sufferers."

INTERPRETATION OF THE TREATY.

Mr. Phelps, after commenting in the language already quoted from his letter on the claim for the customs penalty, treats, as the only question, whether the vessel is to be forfeited for purchasing bait to be used in lawful fishing. In following his argument on this point, it should be borne in mind, as already stated, that in so far as the fact of the bait having been intended to be used in lawful fishing is material to the case, that is a fact which is not admitted. It is one in respect of which the burden of proof is on the owners of the vessel, and it is one on which the owners of the vessel have not yet obtained an adjudication by the tribunal before which the case has gone.

Mr. Phelps admits "that if the language of the treaty of 1818 is to be interpreted literally, rather than according to its spirit and plain intent, a vessel engaged in fishing would be prohibited from entering a Canadian port for any purpose whatever, except to obtain wood or water, or to repair damages, or to seek shelter."

It is claimed on the part of the Government of Canada that this is not only the language of the treaty of 1818, but "its spirit and plain intent." To establish this

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contention it should be sufficient to point to the clear, unambiguous words of the treaty. To those clear and unambiguous words Mr. Phelps seeks to attach a hidden meaning by suggesting that certain "preposterous consequences" might ensue from giving them their ordinary construction. He says that with such a construction a vessel might be forfeited for entering a port "to post a letter, to send a telegram, to buy a newspaper, to obtain a physician in case of illness, or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants, &c."

There are probably few treaties or statutes, the literal enforcement of which might not in certain circumstances, produce consequences worthy of being described as preposterous.

At most, this argument can only suggest that, in regard to this treaty, as in regard to every enactment, its enforcement should not be insisted on where accidental hardships or "preposterous consequences" are likely to ensue. Equity and a natural sense of justice would doubtless lead the Government with which the treaty was made to abstain from its rigid enforcement for inadvertent offenses, although the right so to enforce it might be beyond question. It is for this reason that, inasmuch as the enforcement of this treaty to some extent devolves on the government of Canada, the Parliament of the Dominion has in one of the sections already quoted of the statute relating to fishing by foreign vessels (31 Vic., cap. 61, sec. 19) intrusted the executive with power to mitigate the severity of those provisions when an appeal to executive interference can be justified. In relation to every law of a penal character the same power for the same purpose is vested in the executive. Mr. Phelps will find it difficult, however, to discover any authority among the jurists of his own country or of Great Britain, or among the writers on international law, for the position that, against the plain words of a treaty or statute, an interpretation is to be sought which will obviate all chances of hardship and render unnecessary the exercise of the executive power before mentioned.

It might fairly be urged against his argument that the convention of 1818 is less open to an attempt to change its plain meaning than even a statute would be. The latter is a declaration of its will by the supreme authority of the state, the former was a compact deliberately and solemnly made by two parties, each of whom expressed what he was willing to concede, and by what terms it was willing to be bound. If the purposes for which the United States desired that their fishing vessels should have the right to enter British American waters included other than those expressed, their desire cannot avail them now, nor be a pretext for a special interpretation after they assented to the words "and for no other purpose whatever." If it was "preposterous" that their fishermen should be precluded from entering provincial waters "to post a letter" or for any other of the purposes which Mr. Phelps mentions, they would probably never have assented to a treaty framed as this was. Having done so they cannot now urge that their language was "preposterous" and that its effect must be destroyed by resort to "interpretation."

But that which Mr. Phelps calls "literal interpretation" is by no means so preposterous as he suggests, when the purpose and object of the treaty come to be considered. While it was not desired to interfere with ordinary commercial intercourse between the people of the two countries, the deliberate and declared purpose existed on the part of Great Britain, and the willingness existed on the part of the United States, to secure absolutely and free from the possibility of encroachment the fisheries of the British possessions in America to the people of those possessions, excepting as to certain localities, in respect of which special provisions were made. To effect this it was merely necessary that there should be a joint declaration of the right which was to be established, but that means should be taken to preserve that right. For this purpose a distinction was necessarily drawn between the United States vessels engaged in commerce and those engaged in fishing. While the former had free access to our coasts, the latter were placed under a strict prohibition.

The purpose was to prevent the fisheries from being poached on, and to preserve them to "the subjects of his Britannic Majesty in North America, not only for the pursuit of fishing within the waters adjacent to the coast (which ear under the law of nations be done by any country), but as a basis of supplies for the pursuit of fishing in the deep sea." For this purpose it was necessary to keep out foreign fishing vessels, excepting in cases of dire necessity, no matter under what pretext they might desire to come in. The fisheries could not be preserved to our people if every one of the United States fishing vessels that were accustomed to swarm along our coasts could claim the right to enter our harbors "to post a letter, or send a telegram, or buy a newspaper, to obtain a physician in case of illness or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants in fire, flood, or pestilence," or to "buy medicine," or to "purchase a new rope."

The slightest acquaintance with the negotiations which led to the treaty of 1818, and with the state of the fishery question preceding it, induces the belief that if the United States negotiators had suggested these as purposes for which their vessels

should be allowed to enter our waters, the proposal would have been rejected as "preposterous," to quote Mr. Phelps's own words. But Mr. Phelps appears to have overlooked an important part of the case when he suggested that it is a "preposterous" construction of the treaty, which would lead to the purchase of bait being prohibited. So far from such a construction being against "its spirit and plain intent," no other meaning would accord with that spirit and intent. If we adopt one of the methods contended for by Mr. Phelps of arriving at the true meaning of the treaty, namely, having reference to the "attending circumstances," &c., we find that so far from its being considered by the framers of the treaty that a prohibition of the right to obtain bait would be a "preposterous" and an extreme instance, a proposition was made by the United States negotiators that the proviso should read thus: "*Provided, however, That American fishermen shall be permitted to enter such bays and harbors for the purpose only of obtaining shelter, wood, water, and bait,*" and the insertion of the word "bait" was resisted by the British negotiators and struck out. After this, how can it be contended that any rule of interpretation would be sound which would give to United States fishermen the very permission which was sought for on their behalf during the negotiations successfully resisted by the British representatives and deliberately rejected by the framers of the convention?

It is a well-known fact that the negotiations preceding the treaty had reference very largely to the deep-sea fisheries, and that the right to purchase bait in the harbors of the British possessions for the deep-sea fishing was one which the United States fishermen were intentionally excluded from. Referring to the difficulties which subsequently arose from an enforcement of the treaty, an American author says:

"It will be seen that most of those difficulties arose from a change in the character of the fisheries; cod being caught on the banks, were seldom pursued within the 3-mile limit, and yet it was to cod, and perhaps halibut, that all the early negotiations had referred.

"The mackerel fishing had now sprung up in the Gulf of St. Lawrence, and had proved extremely profitable. This was at that time an inshore fishery." (Schnyler's American Diplomacy, page 411.)

In further amplification of this argument, the undersigned would refer to the views set forth in the memorandum before mentioned in the letters of Mr. Bayard in May last, and to those presented in the report of the minister of marine and fisheries, approved on the 14th June ultimo.

While believing, however, that Mr. Phelps cannot, by resort to any such matters, successfully establish a different construction for the treaty from that which its words present, the undersigned submits that Mr. Phelps is mistaken as to the right to resort to any matters outside the treaty itself to modify its plain words. Mr. Phelps expresses his contention thus: "It seems to me clear that the treaty may be considered in accordance with those ordinary and well settled rules, applicable to all written instruments, which without such salutary assistance must constantly fail of their purpose. By these rules the letter often gives way to the intent, or rather is only used to ascertain the intent, and the whole document will be taken together and will be considered in connection with the attending circumstances, the situation of the parties, and the object in view, and thus the literal meaning of an isolated clause is often shown not to be the meaning really understood or intended." It may be readily admitted that such rules of interpretation exist, but when are they to be applied? Only when interpretation is necessary—when the words are plain in their ordinary meaning, the task of interpretation does not begin. Vattel says in reference to the "interpretation of treaties":

"The first general maxim of interpretation is that it is not allowable to interpret what has no need of interpretation. When the deed is worded in clear and precise terms, when its meaning is evident and leads to no absurd conclusion, there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures in order to restrict or extend it is but an attempt to elude it.

"Those cavilers who dispute the sense of a clear and determinate article are accustomed to seek their frivolous subterfuges in the pretended intentions and views which they attribute to its author. It would be very often dangerous to enter with them into the discussion of these supposed views that are pointed out in the piece itself. The following rule is better calculated to foil such cavilers, and will at once cut short all chicanery: *If he who could and ought to have explained himself clearly and fully has not done it, it is the worse for him; he cannot be allowed to introduce subsequent restrictions which he has not expressed.* This is a maxim of the Roman law, '*Pactum obscurum us usage [?] iis nocere*' in quorum fuit potestate legem apertius conscribere." The equity of this rule is glaringly obvious, and its necessity is not less evident." (Vattel's Interpretation of Treaties, lib. ii, chap. 17.)

Sedgwick, the American writer on the "Construction of Statutes" (and treaties are construed by much the same rules as statutes), says, at page 194: "The rule is, as we shall constantly see, cardinal and universal; but if the statute is plain and un-

have been rejected as Phelps appears to have said that it is a "preposterous purchase of bait being pro-spirit and plain intent."

If we adopt one of the meanings of the treaty, &c., we find that so far prohibition of the right stance, a proposition was read thus: "Provided, for such bays and harbors bait," and the insertion and struck out. After would be sound which which was sought for on the British representation?

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ambiguous, there is no room for construction or interpretation. The legislature has spoken; their interpretation is free from doubt, and their will must be obeyed. 'It may be proper,' it has been said in Kentucky, 'in giving a construction to a statute, to look to the effects and consequences when its provisions are ambiguous or the legislative intention is doubtful. But when the law is clear and explicit and its provisions are susceptible of but one interpretation, if evil, can only be avoided by a change of the law itself, to be effected by legislative and not judicial action. "So, too," it is said by the Supreme Court of the United States, 'where a law is plain and unambiguous, whether it be expressed in general or limited terms, the legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction.'"

At the tribunal of arbitration at Genoa,* held under the Washington treaty in 1872, a similar question arose. Counsel for Her Majesty's Government presented a supplemental argument, in which the ordinary rules for the interpretation of treaties were invoked. Mr. Everts, one of the counsel for the United States and afterwards Secretary of State, made a supplemental reply, in which the following passage occurs: "At the close of the special argument we find a general presentation of canons for the construction of treaties and some general observations as to the light or the controlling reason under which these rules of the treaty should be construed. These suggestions may be briefly dismissed. It certainly would be a very great reproach to these nations which had deliberately fixed upon three propositions as expressive of the law of nations, in their judgment, for the purposes of this trial, that a resort to general instructions for the purpose of interpretation was necessary. Eleven canons of interpretation drawn from Vattel are presented in order, and then several of them as the case suits, are applied as valuable in elucidating this or that point of the rules. But the learned counsel has omitted to bring to your notice the first and most general rule of Vattel, which being once understood would, as we think, dispense with any consideration of these subordinate canons which Vattel has introduced to be used only in case his first general rule does not apply. This first proposition is that 'it is not allowable to interpret what has no need of interpretation.'" (Washington Treaty Papers, vol. iii, pp. 446-7.)

In a letter of Mr. Hamilton Fish to the United States minister in England on the same subject, dated April 16, 1872, the following view was set forth: "Further than this, it appears to me that the principles of English and American law (and they are substantially the same) regarding the construction of statutes and treaties, and of written instruments generally, would preclude the seeking of evidence of intent outside the instrument itself. It might be a painful trial on which to enter in seeking the opinions and recollections of parties, to bring into conflict the different expectations of those who were engaged in the negotiation of an instrument." (Washington Treaty Papers, vol. ii, p. 473.)

But even at this barrier the difficulty in following Mr. Phelps's argument, by which he seeks to reach the interpretation he desires, does not end. After taking a view of the treaty which all authorities thus forbid, he says: "Thus regarded, it appears to me clear that the words 'for no other purpose whatever,' as employed in the treaty, mean for no other purpose inconsistent with the provisions of the treaty." Taken in that sense the words would leave no meaning, for no other purpose would be consistent with the treaty, excepting those mentioned. He proceeds, "or prejudicial to the interests of the provinces or their inhabitants." If the United States authorities are the judges as to what is prejudicial to those interests, the treaty will have very little value; if the provinces are to be the judges, it is most prejudicial to their interests that United States fishermen should be permitted to come into their harbors on any pretext, and it is fatal to their fishery interests that these fishermen, with whom they have to compete at such a disadvantage in the markets of the United States, should be allowed to enter for supplies and bait, even for the pursuit of the deep sea fisheries. Before concluding his remarks on this subject, the undersigned would refer to a passage in the answer on behalf of the United States to the case of Her Majesty's Government as presented to the Halifax Fisheries Commission in 1877: "The various incidental and reciprocal advantages of the treaty, such as the privileges of traffic, purchasing, bait and other supplies, are not the subject of compensation, because the treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws or the re-enactment of former oppressive statutes."

Mr. Phelps has made a lengthy citation from the Imperial act, 59 George III, cap. 38, for the purpose of establishing—

- 1st. That the penalty of forfeiture was not incurred by any entry into British ports, unless accompanied by fishing, or preparing to fish, within the prohibited limits.
- 2d. That it was not the intention of Parliament, or its understanding of the treaty, that any other entry should be regarded as an infraction of the provisions of that act.

* Geneva.

As regards the latter point, it seems to be effectually disposed of by the quotation which Mr. Phelps has made. The act permits fishermen of the United States to enter into the bays or harbors of his Britannic Majesty's dominions in America for the purposes named in the treaty, "and for no other purpose whatever," and after enacting the penalty of forfeiture in regard to certain offenses, provides a penalty of £200 sterling against any person otherwise offending against the act. It cannot, therefore, be successfully contended that Parliament intended to permit entry into the British American waters for the purchase of bait, or for any other than the purposes specified in the treaty.

As to the first point, it is to be observed that the penalty of forfeiture was expressly pronounced as applicable to the offense of fishing or preparing to fish. It may be that forfeiture is incurred by other illegal entry, contrary to the treaty and contrary to the statute. It may also be contended that preparing, within the prohibited limits, to fish in any place is the offense at which the penalty is aimed, or it may be that the preparing within these waters to fish is evidence of preparing to fish within the prohibited waters under the Imperial statute, and especially under the Canadian statute, which places the burden of proof on the defendant.

The undersigned does not propose at this time to enter into any elaborate argument to show the grounds on which the penalty of forfeiture is available, because that question is one which is more suitable for determination by the courts, to whose decision it has been referred in the very case under consideration.

The decision in the case of the *David J. Adams* will be soon pronounced, and as the Government of Canada will be bound by the ultimate judgment of competent authority on this question, and cannot be expected to acquiesce in the view of the United States Government without such a judgment, any argument of the case in diplomatic form would be premature and futile.

In order, however, to show that Mr. Phelps is in error when he assumes that the practical construction hitherto given to the treaty is in accordance with his views, it is as well to state that in the year 1815 the commander of one of Her Majesty's ships of war seized four United States fishing vessels (see *Sabine on Fisheries*), and again in 1817 the Imperial Government acted on the view that they had the right to seize foreign vessels encroaching on the fishing grounds. Instructions were issued by Great Britain to seize foreign vessels fishing or at anchor in any of the harbors or creeks in the British North American possessions, or within their maritime jurisdiction, and send them to Halifax for adjudication. Several vessels were seized and information was fully communicated to the Government of the United States. This, it will be remembered, was not only before the treaty, but before the Imperial act above referred to.

The following were the words of the admiralty instructions then issued:

"On your meeting with any foreign vessels, fishing or at anchor in any of the harbors or creeks in His Majesty's North American Provinces, or within our maritime jurisdiction, you will seize and send such vessel so trespassing to Halifax for adjudication, unless it should clearly appear that they have been obliged to put in there in consequence of distress, acquainting me with the cause of such seizure and every other particular, to enable me to give all information to the lords commissioners of the Admiralty."

Under these instructions eleven or twelve American fishing vessels were seized in Nova Scotia on June 8, 1817, in consequence of their frequenting some of the harbors of that province.

In 1818 the fishing vessels *Mabby* and *Washington* were seized and condemned for entering and harboring in British American waters.

In 1835 the *Java*, *Independence*, *Magnolia*, and *Hart* were seized and confiscated, the principal charge being that they were within British American waters without legal cause.

In 1840 the *Papineau* and *Mary* were seized and sold for purchasing bait.

In the spring of 1819 a United States fishing vessel named the *Charles* was seized and condemned in the vice-admiralty court in New Brunswick for having resorted to a harbor of that province after warning and without necessity.

In the year 1871 the United States fishing vessel *J. H. Nickerson* was seized for having purchased bait within three marine miles of Nova Scotian shore, and condemned by the judgment of Sir William Young, chief justice of Nova Scotia and judge of the court of vice-admiralty. The following is a passage from his judgment:

"The vessel went in, not to obtain water or men, as the allegation says, but to purchase or procure bait (which, as I take it, is a preparing to fish), and it was contended that they had a right to do so, and that no forfeiture accrued on such entering. The answer is, that if a privilege to enter our harbors for bait was to be conceded to American fishermen it ought to have been in the treaty, and it is too important a matter to have been accidentally overlooked. We know, indeed, from the state papers that it was not overlooked; that it was suggested and declined. But the court, as I have already intimated, does not insist upon that as a reason for its judgment. What may

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be fairly and justly insisted on is, that beyond the four purposes specified in the treaty—shelter, repairs, water, and wood—here is another purpose or claim not specified, while the treaty itself declares that no such other purpose shall be received to justify an entry. It appears to me an inevitable conclusion that the J. H. Nickerson, in entering the Bay of Ingonish for the purpose of procuring bait while there, became liable to forfeiture, and upon the true construction of the treaty and acts of Parliament was legally seized." (*Vide* Halifax Com., vol. iii, p. 3398, Washington edition.)

In view of these seizures and of this decision it is difficult to understand the following passages in the letter of Mr. Phelps:

"The practical construction given to the treaty, down to the present time, has been in entire accord with the conclusions thus deduced from the act of Parliament. The British Government has repeatedly refused to allow interference with American fishing vessels, unless for illegal fishing, and has given explicit orders to the contrary."

"Judicial authority upon the question is to the same effect. That the purchase of bait by American fishermen in the provincial ports has been a common practice is well known, but in no case, so far as I can ascertain, has a seizure of an American vessel ever been enforced on the ground of the purchase of bait or of any other supplies. On the hearing before the Halifax Fishery Commission in 1877-'78, this question was discussed and no case could be produced of any such condemnation. Vessels shown to have been condemned were in all cases adjudged guilty, either of fishing or preparing to fish within the prohibited limits."

Although Mr. Phelps is under the impression that "in the hearing before the Halifax Fishery Commission in 1877 this question was discussed and no case could be produced of any such condemnation," the fact appears in the records of that Commission, as published by the Government of the United States, that on a discussion which there arose, the instances above mentioned were nearly all cited, and the judgment of Sir William Young in the case of the J. H. Nickerson was presented in full, and it now appears among the papers of that Commission. (See vol. iii, Documents and Proceedings of Halifax Commission, page 3398, Washington edition.) The decision in the case of the J. H. Nickerson was subsequent to that in the case of the White Pawn mentioned, to the exclusion of all the other cases referred to by Mr. Phelps. Whether that decision should be reaffirmed or not is a question more suitable for judicial determination than for discussion here.

RIGHT OF THE DOMINION PARLIAMENT TO MAKE FISHERY ENACTMENTS.

Mr. Phelps deems it unnecessary to point out that it is not in the power of the Canadian Parliament to alter or enlarge the provisions of the act of the Imperial Parliament, or to give to the treaty either a construction or a legal effect not warranted by that act.

No attempt has ever been made by the Parliament of Canada, or by that of any of the provinces to give a "construction" to the treaty, but the undersigned submits that the right of the Parliament of Canada, with the royal assent given in the manner provided in the constitution, to pass an act on this subject to give that treaty effect, or to protect the people of Canada from the infringement of the treaty provisions is clear beyond question. An act of that parliament, duly passed according to constitutional forms, has as much the force of law in Canada, and binds as fully offenders who may come within its jurisdiction any act of the Imperial Parliament.

The efforts made on the part of the Government of the United States to deny and refute the validity of colonial statutes on this subject have been continued for many years, and in every instance have been set at naught by the Imperial authorities and by the judicial tribunals.

In May, 1870, this vain contention was completely abandoned, a circular was issued by the Treasury Department at Washington, in which circular the persons to whom it was sent were authorized and directed to inform all masters of fishing vessels that the authorities of the Dominion of Canada had resolved to terminate the system of granting fishing licenses to foreign vessels.

The circular proceeds to state the terms of the treaty of 1818 in order that United States fishermen might be informed of the limitation thereby placed on their privileges. It proceeds further to set out at large the Canadian act of 1868, relating to fishing by foreign vessels, which has been hereinbefore referred to.

The fishermen of the United States were by that circular expressly warned of the nature of the Canadian statute, which it is now once more pretended is without force, but no intimation was given to those fishermen that these provisions were nugatory and would be resisted by the United States Government. Lest there should be any misapprehension on that subject, however, on June 9 of the same year, less than a month after that circular, another circular was issued from the same Department stating again the terms of the treaty of 1818, and then containing the following paragraph: "Fishermen of the United States are bound to respect the British laws for the regulation and preservation of the fisheries to the same extent to which they are

applicable to British and Canadian fishermen." The same circular, noticing the change made in the Canadian fishery act of 1868 by the amendment of 1870, makes this observation: "It will be observed that the warning formerly given is not required under the amended act, but that vessels trespassing are liable to seizure without such warning."

THE CANADIAN STATUTE OF 1886.

Mr. Phelps is again under an erroneous impression with regard to the statute introduced at the last session of the Dominion Parliament.

He is informed that "since the seizure" the Canadian authorities have pressed, or are pressing, through the Canadian Parliament in much haste, an act which is designed, for the first time in the history of the legislature under this treaty, to make the facts upon which the American vessels have been seized illegal, and to authorize proceedings against them therefor.

The following observations are appropriate in relation to this passage of Mr. Phelps's letter:

(1) The act which he refers to was not passed with haste. It was passed through the two houses in the usual manner, and with the observance of all the usual forms. Its passage occupied probably more time than was occupied in the passage through the Congress of the United States of a measure which possesses much the same character, and which will be referred to hereafter.

(2) The act has no bearing on the seizures referred to.

(3) It does not make any act illegal which was legal before, but declares what penalty attaches to the offenses which were already prohibited. It may be observed in reference to the charges of "undue haste," and of "legislating for the first time in the history of the legislation under the treaty," that before the statute referred to had become law the United States Congress passed a statute containing the following section:

"That whenever any foreign country whose vessels have been placed on the same footing in the ports of United States as American vessels (the coastwise trade excepted) shall deny to any vessel of the United States any of the commercial privileges accorded to national vessels in the harbors, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessel of the United States, is hereby authorized to issue his proclamation, excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of each foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such country; and on and after the date named in such proclamation for it to take effect, if the master, officer, or agent of any vessel of such foreign country excluded by said proclamation from the exercise of any commercial privileges shall do any act prohibited by said proclamation in the ports, harbors, or waters of the United States for or on account of such vessel, such vessel and its rigging, tackle, furniture and boats and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this act, or aiding and abetting any other person in such opposition, shall forfeit \$800 and shall be guilty of a misdemeanor, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years." (Sec. 17 of act No. 85 of Congress, 1886.)

This enactment has all the features of hostility which Mr. Phelps has stigmatized as "unprecedented in the history of legislation under the treaty."

ENFORCEMENT OF THE ACTS WITHOUT NOTICE.

Mr. Phelps insists upon what he regards as "obvious grounds of reason and justice" and "upon common principles of comity, that previous notice should have been given of the new stringent restrictions" it was intended to enforce.

It has already been shown that no new restrictions have been attempted. The case of the David J. Adams is proceeding under the statutes which have been enforced during the whole time when the treaty had operation.

It is true that for a short time prior to the treaty of Washington, and when expectations existed of such a treaty being arrived at, the instructions of 1870, which are cited by Mr. Phelps, were issued by the Imperial authorities. It is likewise true that under these instructions the rights of Her Majesty's subjects in Canada were not insisted on in their entirety. These instructions were obviously applicable to the particular time at which and the particular circumstances under which they were issued by Her Majesty's Government.

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But it is obviously unfair to invoke them now under wholly different circumstances as establishing a "practical construction" of the treaty, or as affording any ground for claiming that the indulgence which they extended should be perpetual.

The fishery clauses of the Treaty of Washington were annulled by a notice from the Government of the United States, and, as has already been urged, it would seem to have been the duty of that Government, rather than of the Government of Canada, to have warned its own people of the consequences which must ensue. This was done in 1870 by the circulars from the Treasury Department at Washington, and might well have been done at this time.

Mr. Phelps has been pleased to stigmatize "the action of the Canadian authority in seizing and still detaining the David J. Adams" as not only unfriendly and discourteous, but altogether unwarrantable.

He proceeds to state that that vessel "had violated no existing law," although his letter cites the statute which she had directly and plainly violated; and he states that she "had incurred no penalty that any known statute imposed"; while he has directed at large the words which inflict a penalty for the violation of that statute. He declares it seems impossible for him to escape the conclusion that "this and similar seizures were made by the Canadian authorities for the deliberate purpose of harassing and embarrassing the American fishing vessels in the pursuit of their lawful employment," and that the injury is very much aggravated by the motives which appear to have prompted it.

He professes to have found the real source of the difficulty in the "irritation that has taken place among a portion of the Canadian people, on account of the termination by the United States Government of the Washington treaty," and in a desire to drive the United States "by harassing and annoying their fishermen into the adoption of a new treaty, by which Canadian fish shall be admitted free," and he declares that "this scheme is likely to prove as mistaken in policy as it is unjustifiable in principle."

He might, perhaps, have more accurately stated the real source of the difficulty, had he suggested that the United States authorities have long endeavored, and are still endeavoring, to obtain that which by their solemn treaty they deliberately renounced, and to deprive the Canadian people of that which by treaty the Canadian people lawfully acquired.

The people of the British North American Provinces ever since the year 1818 (with the exception of those periods in which the reciprocity treaty and the fishery clauses of the Washington treaty prevailed), have, at enormous expense, and with great difficulty, been protecting their fisheries against encroachments by fishermen of the United States, carried on under every form and pretext, and aided by such denunciations as Mr. Phelps has thought proper to reproduce on this occasion. They value no less now than they formerly did the rights which were secured to them by the treaty, and they are still indisposed to yield those rights, either to individual aggression or official demands.

The course of the Canadian Government, since the rescision of the fishery clauses of the Washington treaty, has been such as hardly to merit the aspersions which Mr. Phelps has used. In order to avoid irritation and to meet a desire which the Government represented by Mr. Phelps professed to entertain for the settlement of all questions which could reawaken controversy, they canceled for six months after the expiration of those clauses all the benefits which the United States fishermen had enjoyed under them, although, during that interval, the Government of the United States enforced against Canadian fishermen the laws which those fishery clauses had suspended.

Mr. Bayard, the United States Secretary of State, has made some recognition of these facts in a letter which he is reported to have written recently to the owners of the David J. Adams. He says:

"More than one year ago I sought to protect our citizens engaged in fishing from results which might attend any possible misunderstanding between the Governments of Great Britain and the United States as to the measure of their mutual rights and privileges in the territorial waters of British North America. After the termination of the fishery articles of the treaty of Washington, in June last, it seemed to me then, and seems to me now, very hard that differences of opinion between the two Governments should cause loss to honest citizens, whose line of obedience might be thus rendered vague and uncertain, and their property be brought into jeopardy. Influenced by this feeling, I procured a temporary arrangement which secured our fishermen full enjoyment of all Canadian fisheries, free from molestation, during a period which would permit discussion of a just international settlement of the whole fishery question; but other counsels prevailed, and my efforts further to protect fishermen from such trouble as you now suffer were unavailing."

At the end of the interval of six months the United States authorities concluded to refrain from any attempt to negotiate for larger fishery rights for their people, and

they have continued to enforce their customs laws against the fishermen and people of Canada.

The least they could have been expected to do under these circumstances was to leave to the people of Canada the full and unquestioned enjoyment of the rights secured to them by treaty. The Government of Canada has simply insisted upon those rights and has presented to the legal tribunals its claim to have them enforced.

The insinuations of ulterior motives, the imputations of unfriendly dispositions, and the singularly inaccurate representation of all the leading features of the questions under discussion, may, it has been assumed, be passed by with little more comment. They are hardly likely to induce Her Majesty's Government to sacrifice the rights which they have heretofore helped our people to protect, and they are too familiar to awaken indignation or surprise.

The undersigned respectfully recommends that the substance of this memorandum, if approved, be forwarded to the secretary of state for the colonies, for the information of Her Majesty's Government.

JNO. S. D. THOMPSON,
Minister of Justice.

OTTAWA, July 22, 1886.

No. 8.

Sir L. West to Mr. Bayard.

WASHINGTON, January 28, 1887.
(Received January 29.)

SIR: With reference to your notes of the 19th and 20th of October last, I have the honor to transmit to you herewith copy of a dispatch from the governor-general of Canada to Her Majesty's secretary of state for the colonies relative to the cases of the American fishing vessels "Pearl Nelson" and "Everett Steele," which I am instructed by Her Majesty's principal secretary of state for foreign affairs to communicate to the United States Government.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure in note of January 28.]

The Marquis of Landsowne to Mr. Stanhope.

GOVERNMENT HOUSE, December 20, 1886.

SIR: I had the honor of receiving your dispatch of the 23d of November in regard to the case of the "Everett Steele" and "Pearl Nelson," recently detained at Shelburne and Arichat, Nova Scotia, for non-compliance with the customs regulations of the Dominion.

The circumstances under which the conduct of these vessels attracted the attention of the customs authorities were set out in the privy council orders of the 18th of November, certified copies of which were forwarded to you under cover of my dispatches of the 29th November.

The information contained in these documents was obtained in order to comply with the request for a report on these two cases which you had addressed to me by telegram on a previous date. I have now carefully examined the fuller statements made by Mr. Bayard, both as to the facts and as to the considerations by which the conduct of the local officials should in his opinion have been governed. You will I think find, on reference to the privy council orders already before you, that the arguments advanced by Mr. Bayard have been sufficiently met by the observations of my minister of marine and fisheries, whose reports are embodied in those orders.

It is not disputed that the "Everett Steele" was in Shelburne Harbor on the 25th March and sailed thence without reporting. In consequence of this omission on the master's part his vessel was, on her return to Shelburne, in September, detained by

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D. THOMPSON,
Minister of Justice.

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the collector. The master having explained that his presence in the harbor had been occasioned by stress of weather and that his failure to report was inadvertent, and this explanation having been telegraphed to the minister of marine at Ottawa, the vessel was at once allowed to proceed to sea; her release took place at noon on the day following that of her detention.

In the case of the "Pearl Nelson" it is not denied that nine of her crew were landed in Arichat Harbor at a late hour in the evening of her arrival and before the master had reported to the custom-house. It is obvious that if men were to be allowed to go on shore, under such circumstances, without notification to the authorities, great facilities would be offered for landing contraband goods, and there can be no question that the master, by permitting his men to land, was guilty of a violation of sections 25 and 180 of the customs act. There seems to be reason to doubt his statement that he was driven into Arichat by stress of weather; but, be this as it may, the fact of his having entered the harbor for a lawful purpose would not carry with it a right to evade the law to which all vessels frequenting Canadian ports are amenable. In this case, as in that of the "Everett Steele," already referred to, the statement of the master that his offense was due to inadvertence was accepted, and the fine imposed at once remitted.

I observe that in his dispatch relating to the first of these cases Mr. Bayard insists with much earnestness upon the fact that certain "prerogatives" of access to the territorial waters of the Dominion were specially reserved under the convention of 1818 to the fishermen of the United States, and that a vessel entering a Canadian harbor for any purpose coming within the terms of article 1 of that convention has as much right to be in that harbor as she would have to be upon the high seas, and he proceeds to institute a comparison between the detention of the "Everett Steele" and the wrongful seizure of a vessel on the high seas upon the suspicion of being engaged in the slave trade. Mr. Bayard further calls attention to the special consideration to which, from the circumstances of their profession, the fishermen of the United States are, in his opinion, entitled, and he dwells upon the extent of injury which would result to them if they were debarred from the exercise of any of the rights assured to them by treaty or convention.

I observe that in Sir Julian Pauncefote's letter inclosed in your dispatch it is stated that the secretary of state for foreign affairs wishes to urge upon the Dominion Government the great importance of issuing stringent instructions to its officials not to interfere with any of the privileges expressly reserved to United States fishermen under Article 1 of the convention of 1818.

I trust that the explanations which I have already been able to give in regard to the cases of these vessels will have satisfied you that the facts disclosed do not show any necessity for the issuing of instructions other than those already circulated to the local officials intrusted with the execution of the customs and fishery law.

There is certainly no desire on the part of my Government (nor, I believe, does the conduct of the local officials justify the assumption that such a desire exists) to curtail in any respect the privileges enjoyed by United States fishermen in Canadian waters. It cannot on the other hand be contended that because these privileges exist, and are admitted by the Government of the Dominion, those who enjoy them are to be allowed immunity from the regulations to which all vessels resorting to Canadian waters are without exception subjected under the customs act of 1883 and the different statutes relating the fisheries of the Dominion.

In both of the cases under consideration there was a clear and undoubted violation of the law, and the local officials would have been culpable if they had omitted to notice it. That there was no animus on their part or on that of the Canadian Government is, I think, clearly proved by the promptitude with which the circumstances were investigated and the readiness shown to overlook the offense, and to remit the penalty incurred, as soon as proof was forthcoming that the offense had been unintentionally committed. In support of this view I would draw your attention to the letter (see inclosure to my dispatch of 29th November) of Mr. Phelan, the consul-general of the United States at Halifax, who has expressed his own satisfaction at the action of the authorities in the case of the "Pearl Nelson," and who also refers to a communication received by him from the Department of State, in which it is stated that the conduct of the assistant commissioner of customs in dealing with two other cases of a somewhat similar complexion "shows a proper spirit."

I have, &c.,

LANSDOWNE.

II.—CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE UNITED STATES LEGATION IN LONDON.

No. 9.

Mr. Bayard to Mr. Phelps.

No. 458.]

DEPARTMENT OF STATE,
Washington, November 12, 1886.

SIR: * * * I have already written you asking whether from the British foreign office you could obtain a copy of the report first made by the officer in command of the Canadian vessel by whom the schooner David J. Adams was seized, and you will perceive from the reply of Mr. Graham, who represents the Canadian Government in the suit in the vice-admiralty court at Halifax, that he declines to promise to produce the reports made by these officers at the time of the seizure, in which the causes for such action would naturally be set forth.

In the course of your correspondence or conversation with Lord Iddesleigh it might be well to draw his attention to the difficulties thrown in the way of the American fishermen in not being permitted to learn the nature and extent of the offense with which they were charged, and so be compelled to go to trial without those certainties of allegation which are held in courts of justice to be incumbent upon the claimant before he is entitled to recover in any suit.

It really appears that this method of Canadian procedure is belittling the important principles involved in the international question now under consideration between the United States and Great Britain.

I am, &c.,

T. F. BAYARD.

No. 10.

Mr. Phelps to Mr. Bayard.

No. 393.]

LEGATION OF THE UNITED STATES,
London, December 3, 1886. (Received December 14.)

SIR: Referring to your several instructions on the subject of the Canadian fisheries, numbered, respectively, 452 * * * I have the honor to inform you that on the 27th November I addressed a note to Lord Iddesleigh, Her Majesty's secretary of state for foreign affairs, inclosing a copy of your instructions, No. 452, relative to the case of the "Marion Grimes."

On the 30th November I had an interview with his lordship, in which the subject of the instruction above mentioned was discussed.

On the 2d December I addressed to him another note in pursuance of instruction No. 458, asking that the solicitors for the owners of the fishing vessel "David J. Adams" may be furnished, for use in the suit concerning that vessel now pending at Halifax, with copies of the original reports mentioned in that instruction, showing the charges upon which the seizure was originally made.

I have this day received from Lord Iddesleigh a note, dated November 30, in reply to mine addressed to him on the 11th of September last,

on the subject of the same fisheries, a copy of which has heretofore been transmitted to you.

And I have now sent a note to Lord Iddesleigh acknowledging the receipt of his communication, and saying that I should at an early date submit to him some considerations in reply.

I have the honor to inclose herewith copies of my notes above referred to, dated November 27, December 2, and of Lord Iddesleigh's note of November 30.

I have, &c.,

E. J. PHELPS.

[Inclosure 1 in No. 393.]

Mr. Phelps to Lord Iddesleigh.

LEGATION OF THE UNITED STATES,
London, November 27, 1886.

MY LORD: I have the honor to transmit herewith a copy of an instruction, under date of November 6, 1886, received by me from the Secretary of State of the United States, relative to the case of the United States fishing vessel the "Marion Grimes."

The subject is so fully presented in this document, a copy of which I am authorized by the Secretary to place in the hands of your lordship, that I can add nothing to what is therein set forth, except to request your lordship's early attention to the case, which appears to be a very flagrant violation of the rights secured to American fishermen under the treaty of 1818.

I have, &c.,

C. J. PHELPS.

[Inclosure 2 in No. 393.]

Mr. Phelps to Lord Iddesleigh.

LEGATION OF THE UNITED STATES,
London, December 2, 1886.

MY LORD: Referring to the conversation I had the honor to hold with your lordship on the 30th November, relative to the request of my Government that the owners of the "David J. Adams" may be furnished with a copy of the original reports, stating the charges on which that vessel was seized by the Canadian authorities, I desire now to place before you in writing the grounds upon which this request is preferred.

It will be in the recollection of your lordship, from the previous correspondence relative to the case of the Adams, that the vessel was first taken possession of for the alleged offense of having purchased a small quantity of bait within the port of Digby, in Nova Scotia, to be used in lawful fishing. That later on a further charge was made against the vessel of a violation of some custom-house regulation, which it is not claimed, so far as I can learn, was ever before insisted on in a similar case. I think I have made it clear in my note of the 2d of June last, addressed to Lord Rosebery, then foreign secretary, that no act of the English or of the Canadian Parliament existed at the time of this seizure which legally justified it on the ground of the purchase of bait, even if such an act would have been authorized by the treaty of 1818. And it is a natural and strong inference, as I have in that communication pointed out, that the charge of violation of custom-house regulations was an afterthought, brought forward in order to sustain proceedings commenced on a different charge and found untenable.

In the suit that is now going on in the admiralty court at Halifax, for the purpose of condemning the vessel, still further charges have been added. And the Government of Canada seek to avail themselves of a clause in the act of the Canadian Parliament of May 22, 1868, which is in these words: "In case a dispute arises as to whether any seizure has or has not been legally made or as to whether the person seizing was or was not authorized to seize under this act * * * the burden of proving the illegality of the seizure shall be on the owner or claimant."

I cannot quote this provision without saying that it is, in my judgment, in violation of the principles of natural justice, as well as of those of the common law. That a

man should be charged by police or executive officers with the commission of an offense and then be condemned upon trial unless he can prove himself to be innocent is a proposition that is incompatible with the fundamental ideas upon which the administration of justice proceeds. But it is sought in the present case to carry the proposition much further, and to hold that the party inculpated must not only prove himself innocent of the offense on which his vessel was seized, but also of all other charges upon which it might have been seized that may be afterwards brought forward and set up at the trial.

Conceiving that if the clause I have quoted from the act of 1868 can have effect (if allowed any effect at all) only upon the charge on which the vessel was originally seized, and that seizure for one offense cannot be regarded as *prima facie* evidence of guilt of another, the counsel for the owners of the vessel have applied to the prosecuting officers to be furnished with a copy of the reports made to the Government of Canada in connection with the seizure of the vessel, either by Captain Scott, the seizing officer, or by the collector of customs at Digby, in order that it might be known to the defendant and be shown on trial what the charges are on which the seizure was grounded, and which the defendant is required to disprove. This most reasonable request has been refused by the prosecuting officers.

Under these circumstances, I am instructed by my Government to request of Her Majesty's Government that the solicitors for the owners of the "David J. Adams" in the suit pending in Halifax may be furnished, for the purposes of the trial thereof, with copies of the reports above mentioned. And I beg to remind your lordship that there is no time to be lost in giving the proper direction if it is to be in season for the trial, which, as I am informed, is being pressed.

I have, &c.,

E. J. PHELPS.

[Inclosure 3 in No. 393.]

The Earl of Idlesleigh to Mr. Phelps.

FOREIGN OFFICE, November 30, 1866.

SIR: I have given my careful consideration to the contents of the note of the 11th September last, which you were good enough to address to me in reply to mine of the 1st of the same month, on the subject of the North American fisheries.

The question, as you are aware, has for some time past engaged the serious attention of Her Majesty's Government, and the notes which have been addressed to you in relation to it, both by my predecessor and by himself, have amply evinced the earnest desire of Her Majesty's Government to arrive at some equitable settlement of the controversy. It is, therefore, with feelings of disappointment that they do not find in your note under reply any indication of a wish on the part of your Government to enter upon negotiations based on the principle of mutual concessions, but rather a suggestion that some *ad interim* construction of the terms of the existing treaty should, if possible, be reached, which might for the present remove the chance of disputes; in fact, that Her Majesty's Government, in order to allay the differences which have arisen, should temporarily abandon the exercise of the treaty rights which they claim, and which they conceive to be indisputable. For Her Majesty's Government are unable to perceive any ambiguity in the terms of Article I of the convention of 1818, nor have they as yet been informed in what respects the construction placed upon that instrument by the Government of the United States differs from their own. They would, therefore, be glad to learn in the first place whether the Government of the United States contest that, by Article I of the convention, United States fishermen are prohibited from entering British North American bays or harbors on those parts of the coast, referred to in the second part of the article in question, for any purposes save those of *shelter, repairing damages, purchasing wood, and obtaining water*.

Before proceeding to make some observations upon the other points dealt with in your note, I have the honor to state that I do not propose in the present communication to refer to the cases of the schooners "Thomas F. Bayard" and "Mascot," to which you allude.

The privileges manifestly secured to United States fishermen by the convention of 1818 in Newfoundland, Labrador, and the Magdalen Islands are not contested by Her Majesty's Government, who, whilst determined to uphold the rights of Her Majesty's North American subjects, as defined in the convention, are no less anxious and resolved to maintain in their full integrity the facilities for prosecuting the fishing industry on certain limited portions of the coast which are expressly granted to citizens of the United States. The communications on the subject of these two schooners, which I have requested Her Majesty's minister at Washington to address

to Mr. Bayard, cannot, I think, have failed to afford to your Government satisfactory assurance in this respect.

Reverting now to your note under reply, I beg to offer the following observations on its contents:

In the first place, you take exception to my predecessor having declined to discuss the case of the "David J. Adams," on the ground that it was still *sub judice*, and you state that your Government are unable to accede to the proposition contained in my note of the 1st of September last, to the effect that "it is clearly right, according to practice and precedent, that such diplomatic action should be suspended pending the completion of the judicial inquiry."

In regard to this point, it is to be remembered that there are three questions calling for investigation in the case of the "David J. Adams:"

(1) What were the acts committed which led to the seizure of the vessel?

(2) Was her seizure for such acts warranted by any existing laws?

(3) If so, are those laws in derogation of the treaty rights of the United States?

It is evident that the first two questions must be the subject of inquiry before the third can be profitably discussed, and that those two questions can only be satisfactorily disposed of by a judicial inquiry. Far from claiming that the United States Government would be bound by the construction which the British tribunals might place on the treaty, I stated in my note of the 1st September that if that decision should be adverse to the views of your Government it would not preclude further discussion between the two Governments and the adjustment of the question by diplomatic action.

I may further remark that the very proposition advanced in my note of the 1st of September last, and to which exception is taken in your reply, has, on a previous occasion, been distinctly asserted by the Government of the United States under precisely similar circumstances, that is to say, in 1870, in relation to the seizure of American fishing vessels in Canadian waters for alleged violation of the convention of 1818.

In a dispatch of the 29th of October, 1870, to Mr. W. A. Dart, United States consul-general at Montreal (which is printed at page 431 of the volume for that year of the Foreign Relations of the United States, and which formed part of the correspondence referred to by Mr. Bayard in his note to Sir L. West of the 20th of May last), Mr. Fish expressed himself as follows:

"It is the duty of the owners of the vessels to defend their interests before the courts at their own expense, and without special assistance from the Government at this stage of affairs. It is for those tribunals to construe the statutes under which they act. If the construction they adopt shall appear to be in contravention of our treaties with Great Britain, or to be (which cannot be anticipated) plainly erroneous in a case admitting of no reasonable doubt, it will then become the duty of the Government—a duty which it will not be slow to discharge—to avail itself of all necessary means for obtaining redress."

Her Majesty's Government, therefore, still adhere to their view that any diplomatic discussion as to the legality of the seizure of the "David J. Adams" would be premature until the case has been judicially decided.

It is further stated in your note that "the absence of any statute authorizing proceedings or providing a penalty against American fishing vessels for purchasing bait or supplies in a Canadian port to be used in lawful fishing" affords "the most satisfactory evidence that up to the time of the present controversy no such construction has been given to the treaty by the British or by the colonial parliament as is now sought to be maintained."

Her Majesty's Government are quite unable to accede to this view, and I must express my regret that no reply has yet been received from your Government to the arguments on this and all the other points in controversy, which are contained in the able and elaborate report (as you courteously describe it) of the Canadian minister of marine and fisheries, of which my predecessor communicated to you a copy.

In that report reference is made to the argument of Mr. Bayard, drawn from the fact that the proposal of the British negotiators of the convention of 1818, to the effect that American fishing vessels should carry no merchandise, was rejected by the American negotiators; and it is shown that the above proposal had no application to American vessels resorting to the Canadian coasts, but only to those exercising the right of inshore fishing and of landing for the drying and curing of fish on parts of the coasts of Newfoundland and Labrador.

The report, on the other hand, shows that the United States negotiators proposed that the right of "procuring bait" should be added to the enumeration of the four objects for which the United States fishing vessels might be allowed to enter Canadian waters; and that such proposal was rejected by the British negotiators, thus showing that there could be no doubt in the minds of either party at the time that the "procuring of bait" was prohibited by the terms of the article. The report, moreover, recalls the important fact that the United States Government admitted, in the case submitted by them before the Halifax Commission in 1877, that neither the conven-

E. J. PHELPS.

tion of 1818 nor the treaty of Washington conferred any right or privilege of trading on American fishermen; that the "various incidental and reciprocal advantages of the treaty, such as the privileges of traffic, purchasing bait and other supplies are not the subject of compensation, because the treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them."

This view was confirmed by the ruling of the commissioners. Whilst I have felt myself bound to place the preceding observations before you in reply to the arguments contained in your note, I beg leave to say that Her Majesty's Government would willingly have left such points of technical detail and construction for the consideration of a commission properly constituted to examine them, as well as to suggest a means for either modifying their application or substituting for them some new arrangement of a mutually satisfactory nature.

I gather, however, from your note that, in the opinion of your Government, although a revision of treaty stipulations on the basis of mutual concessions was desired by the United States before the present disputes arose, yet the present time is inopportune for various reasons, among which you mention the irritation created in the United States by the belief that the action of the Canadian Government has had for its object to force a new treaty on your Government.

Her Majesty's Government learn with much regret that such an impression should prevail, for every effort has been made by the Canadian Government to promote a friendly negotiation and to obviate the differences which have now arisen. Indeed, it is hardly necessary to remind you that, for six months following the denunciation by your Government of the fishery articles of the treaty of Washington, the North American fisheries were thrown open to citizens of the United States without any equivalent, in the expectation that the American Government would show their willingness to treat the question in a similar spirit of amity and good will.

Her Majesty's Government cannot but express a hope that the whole correspondence may be laid immediately before Congress, as they believe that its perusal would influence public opinion in the United States in favor of negotiating, before the commencement of the next fishing season, an arrangement based on mutual concessions, and which would therefore (to use the language of your note) "consist with the dignity, the interests, and the friendly relations of the two countries."

Her Majesty's Government cannot conceive that negotiations commenced with such an object and in such a spirit could fail to be successful; and they trust, therefore, that your Government will endeavor to obtain from Congress, which is about to assemble, the necessary powers to enable them to make to Her Majesty's Government some definite proposals for the negotiation of a mutually advantageous arrangement.

I have, &c.,

IDDESLEIGH.

[Inclosure 4 in No. 393.]

Mr. Phelps to Lord Iddesleigh.

LEGATION OF THE UNITED STATES,

London, December 3, 1886.

MY LORD: I have the honor to acknowledge the receipt of your note of the 30th November on the subject of the Canadian fisheries, and to say that I shall at an early day submit to your lordship some considerations in reply.

I have, &c.,

E. J. PHELPS.

No. 11.

Mr. Bayard to Mr. Phelps.

No. 466.]

DEPARTMENT OF STATE,

Washington December 11, 1886.

SIR: I inclose herewith, for your information, a copy of my note of the 1st instant to Sir Lionel West, her Britannic Majesty's minister at this capital, concerning the treatment by the Canadian authorities of the American fishing schooner "Molly Adams," of Gloucester, Mass.

I am, &c.,

T. F. BAYARD.

No. 12.

Mr. Bayard to Mr. Phelps.

No. 470.]

DEPARTMENT OF STATE,
Washington, December 8, 1886.

SIR: With reference to instruction No. 466, of the 7th instant, concerning the case of the American fishing schooner "Molly Adams," I now transmit to you herewith, for your further information, a copy of the letter of Mr. Solomon Jacobs, of the 12th ultimo, in which the matter was brought to the attention of the Department.

I am, &c.,

T. F. BAYARD.

No. 13.

Mr. Bayard to Mr. Phelps.

No. 472.]

DEPARTMENT OF STATE,
Washington, December 8, 1886.

SIR: My attention has just been drawn to a notice published by the British Government in London in relation to the exercise of fishing rights in common with France.

It occurs to me that it may be pertinent to the consideration of the questions discussed in the *modus vivendi*, in relation to the British North American fisheries, lately forwarded to you by this Department.

The publication no doubt can readily be procured in London. It is issued in pamphlet form.

I am, &c.

T. F. BAYARD.

[Inclosure in No. 472.]

Further notice to British fishermen with respect to the exclusive fishery limits of France.

The French Government have intimated to Her Majesty's Government that the recent detention of English oyster smacks which entered Havre to pass Sunday there in fine weather, was effected by the maritime authority at that port for an infraction of Articles LXXXV and LXXXVI of the International Fishery Regulations of May 24, 1843, and that the minister of marine in Paris, on learning the circumstances, directed that the smacks should be immediately released, in consequence of the toleration which has for a long time existed in the United Kingdom and France as regards not enforcing the strict observance of these articles.

The French Government have given special instructions for preventing a recurrence of like circumstances, without a preliminary reference on the part of the authority at the port to the ministry of marine.

The French Government have further intimated that, in the event of their finding that the maintenance of the existing toleration gives rise to inconvenience, notice will be given to Her Majesty's Government, so as to allow of the latter issuing timely warning to British fishermen. (The Board of Trade Journal, vol. 1, No. 4, p. 146, 1886, London.)

THE UNITED STATES,
London, December 3, 1886.
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E. J. PHELPS.

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T. F. BAYARD.

No. 14.

Mr. Bayard to Mr. Phelps.

No. 474.]

DEPARTMENT OF STATE,
Washington, December 13, 1886.

SIR: On the 8th instant I received from the British minister at this capital a communication dated the 7th of this month, accompanied by a copy of the minutes of the honorable privy council of Canada, in relation to the action of Captain Quigley, of the Canadian cutter "Terror," in lowering the flag of the United States fishing schooner "Marion Grimes" whilst under detention by the customs authorities in Shelburne harbor, on the 11th of October last.

As this occurrence had been made the subject of an instruction to you by me, on the 6th ultimo, whereby you were requested to bring the incident to the attention of Her Majesty's Government, I hasten to inform you of the voluntary action of the Canadian Government, and of their expression of regret for the action of the officer referred to.

The copy of the correspondence and proceedings of the Canadian authorities discloses the dates of their action in the premises, of which, however, my earliest information was on the 8th instant, in the note of Sir Lionel West, a copy of which is herewith sent to you.

I am, &c.,

T. F. BAYARD.

No. 15.

Mr. Phelps to Mr. Bayard.

No. 416.]

LEGATION OF THE UNITED STATES,
London, January 13, 1887. (Received January 24.)

SIR: Referring to your instructions numbered 450 of October 29 and 458 of November 12, and also to my dispatch numbered 393 of December 3, I have the honor to inclose herewith the copy of a note which I have just received from the Earl of Iddesleigh in reply to mine of December 2 to his lordship, asking that the owners of the "David J. Adams" be furnished with copies of the original reports stating the charges on which that vessel was seized by the Canadian authorities. A copy of the latter note formed inclosure to my dispatch No. 393 aforesaid.

You will observe that Her Majesty's Government have not seen fit to interfere in the matter.

I have, &c.,

E. J. PHELPS.

[Inclosure in No. 416.]

FOREIGN OFFICE, January 11, 1887.

SIR: Her Majesty's Government have considered the request contained in your note of the 2d ultimo, to the effect that the owners of the "David J. Adams" may be furnished with copies of the original reports stating the charges on which that vessel was seized by the Canadian authorities; and I have now the honor to state to you that if the owners of this vessel are legally entitled to be furnished with those reports they can obtain them by the process of the courts; and there seems no ground for the interference of Her Majesty's Government with the ordinary course of justice.

As regards the means of obtaining information for the purposes of the defense, I would point out that in the report of the Canadian minister of marine and fishery, of which a copy was communicated to you on the 23d July last, it is stated that from a date immediately after the seizure "there was not the slightest difficulty in the United States consul-general, and those interested in the vessel, obtaining the fullest information," and that, "apart from the general knowledge of the offenses which it was claimed the master had committed, and which was furnished at the time of the seizure, the most technical and precise details were readily obtainable at the registry of the court, and from the solicitors of the Crown."

With respect to the statement in your note that a clause in the Canadian act of May 22, 1868, to the effect that, "In case a dispute arises as to whether any seizure has or has not been legally made, or as to whether the person seizing was or was not authorized to seize under this act, the burden of proving the illegality of the seizure shall be on the owner or claimant," is in violation of the principles of national justice, as well as of those of the common law, I have to observe that the statute referred to is cap. 61 of 1868, which provides for the issue of licenses to foreign fishing vessels, and for the forfeiture of such vessels fishing without a license; and that the provisions of Article 10, to which you take exception, are commonly found in laws against smuggling, and are based on the rule of law that a man who pleads that he holds a license or other similar document shall be put to the proof of his plea and required to produce the document.

I beg leave to add that the provisions of that statute, so far as they relate to the issue of licenses, has been in operation since the year 1870.

I have, &c.,

IDDESLEIGH.

No. 16.

Mr. Bayard to Mr. Phelps.

No. 520.]

DEPARTMENT OF STATE,

Washington, January 27, 1887.

SIR: Your dispatch No. 416, of the 12th instant, transmitting a copy of the note, dated the 11th, received by you from the late Lord Idlesleigh, in response to your note of December 2, 1886, requesting copies of the papers in the case of the "David J. Adams," has been received.

The concluding part of Lord Idlesleigh's note seems to demand attention, inasmuch as the argument employed to justify the provisions of Article 10 of the Canadian Statutes, cap. 61 of 1868, which throw on the claimant the burden of proving the illegality of a seizure, appears to rest upon the continued operation of Article 1 of that statute, relative to the issue of licenses to foreign fishing vessels. The note in question states "that the provisions of that statute, so far as they relate to the issue of licenses, has [have?] been in operation since the year 1870."

It appears from the correspondence exchanged in 1870 between this Department and Her Majesty's minister in Washington (see the volume of Foreign Relations, 1870, pp. 407-411) that on the 8th of January, 1870, an order in council of the Canadian Government decreed "that the system of granting fishing license to foreign vessels under the act 31 Vic., cap. 61, be discontinued, and that henceforth all foreign fishermen be prevented from fishing in the waters of Canada."

During the continuance of the fishery articles of the treaty of Washington Canadian fishing licenses were not required for fishermen of the United States, and since the termination of those articles, July 1, 1885, this Department has not been advised of the resumption of the licensing system under the statute aforesaid.

F STATE,
December 13, 1886.

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T. F. BAYARD.

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E. J. PHELPS.

OFFICE, January 11, 1887.
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The faulty construction of the last paragraph of Lord Iddesleigh's note, as transmitted with your No. 416, suggests the possibility of a clerical error in the preparation or transcription of that note, and that it may have been intended to state that the licensing provisions of the Statute, cap. 61, 1868, "have *not* been in operation since 1870," but in that case it is not easy to apply the argument advanced.

I am, &c.,

T. F. BAYARD.

No. 17.

Mr. Phelps to Mr. Bayard.

No. 423.]

LEGATION OF THE UNITED STATES,
London, January 27, 1887. (Received February 7.)

SIR: I have the honor to transmit herewith a copy of a note addressed to me by Lord Iddesleigh, secretary of state for foreign affairs, dated December 16, 1886.

Also a copy of a note addressed to me by Sir Julian Pauncefote, acting secretary of foreign affairs during a vacancy in that office, dated January 14, 1887.

Also a copy of a note addressed by me to Lord Salisbury, secretary of state for foreign affairs, dated January 26, 1887.

All on the subject of the Canadian fisheries.

I am to have an interview with Lord Salisbury by appointment to-morrow in reference to the same subject.

I have, &c.,

E. J. PHELPS.

[Inclosure 1 in No. 423.]

Lord Iddesleigh to Mr. Phelps.

FOREIGN OFFICE, December 16, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo relative to the case of the "*Marion Grimes*," stated to have been fined and detained at Shelburne, Nova Scotia, in October last.

As other cases besides that of the "*Marion Grimes*" are alluded to in the documents forwarded in your note, it will be desirable to take each case separately, and inform you shortly of the steps which Her Majesty's Government have taken in regard to them.

In respect to the case of the "*Marion Grimes*," I have already received, through Her Majesty's secretary of state for the colonies, a copy of a dispatch from the Dominion Government, in which they express their regret at the action taken by Captain Quigley in hauling down the United States flag. I have transmitted a copy of this dispatch to Her Majesty's minister at Washington, with instructions to communicate it to Mr. Bayard, and I beg leave to now inclose a copy of it for your information.

Her Majesty's Government cannot doubt that, as respects the incident of the flag, the apology thus spontaneously tendered by the Canadian Government will be accepted by the United States Government in the friendly and conciliatory disposition in which it is offered, whilst as regards the other statements concerning Captain Quigley's conduct, Her Majesty's Government do not at present feel themselves in a position to express any opinion.

The Dominion Government have been requested to furnish a full report on the various circumstances alleged, and when this is received I shall have the honor to address a further communication to you upon the subject.

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T. F. BAYARD.

UNITED STATES,
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E. J. PHELPS.

OFFICE, December 16, 1886.
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As concerns the case of the "Julia Ellen" and "Shiloh," it will probably suffice to communicate to you the inclosed copies of reports from the Canadian Government relative to these two vessels. These reports have already been sent to Her Majesty's minister at Washington for communication to Mr. Bayard.

The protest made by the United States Government in the case of the "Everett Steele" was not received in this country until the 1st ultimo; and although the Canadian Government have been requested by telegraph to furnish a report upon the circumstances alleged, sufficient time has not yet elapsed to enable Her Majesty's Government to be in possession of the facts as reported by the Dominion Government.

Her Majesty's Government greatly regret that incidents of the description alluded to should occur, and they can only renew the assurance conveyed to you in my note of the 30th ultimo, that whilst firmly resolved to uphold the undoubted treaty rights of Her Majesty's North American subjects in regard to the fisheries, they will also equally maintain the undoubted rights of United States fishermen to obtain shelter in Canadian ports, under such restrictions as may be necessary to prevent their abusing the privileges reserved to them by treaty.

I notice that in Mr. Bayard's note to you of the 6th ultimo, concerning the case of the "Marion Grimes," and also in his note to Sir L. West of the 19th October last, relative to the case of the "Everett Steele," an old discussion is revived which Her Majesty's Government had hoped was finally disposed of by the correspondence which took place on the subject in 1815 and 1816.

I allude to the argument that a right to the common enjoyment of the fisheries by Great Britain and the United States, after the separation of the latter from the mother country, was recognised by the treaty of 1783, although the exercise of that right was made subject to certain restrictions. I refer to this point merely to observe that the views of Her Majesty's Government in relation to it have not been modified in any way since the date of Lord Bathurst's note of the 30th of October, 1815, to Mr. John Quincy Adams.

I have, &c.

IDDESLEIGH.

[Inclosure 2 in No. 423.]

FOREIGN OFFICE, January 14, 1887.

SIR: With reference to my predecessor's note of the 30th of November last, I have the honor to transmit to you a copy of a report from the Canadian minister of justice upon the seizure of the American fishing vessel "David J. Adams."

I have forwarded a copy of this report to Her Majesty's minister at Washington for communication to the United States Government.

I have the honor, &c.,

J. PAUNCEFOTE,
(For the Secretary of State.)

[Inclosure 3 in No. 423.]

LEGATION OF THE UNITED STATES,
London, January 26, 1887.

MY LORD: Various circumstances have rendered inconvenient an earlier reply to Lord Iddesleigh's note of November 12 on the subject of the North American fisheries, and the termination of the fishing season has postponed the more immediate necessity of the discussion; but it seems now very important that before the commencement of another season a distinct understanding should be reached between the United States Government and that of Her Majesty relative to the course to be pursued by the Canadian authorities towards American vessels.

It is not without surprise that I have read Lord Iddesleigh's remark, in the note above mentioned, referring to the treaty of 1818, that Her Majesty's Government "have not as yet been informed in what respect the construction placed upon that instrument by the Government of the United States differs from their own."

Had his lordship perused more attentively my note to his predecessor in office, Lord Rosebery, under date of June 2, 1886, to which reference was made in my note to Lord Iddesleigh of September 11, 1886, I think he could not have failed to apprehend distinctly the construction of that treaty for which the United States Government contends and the reasons and arguments upon which it is founded.

I have again respectfully to refer your lordship to my note to Lord Rosebery of June 2, 1886, for a very full and, I hope, clear exposition of the ground taken by the

United States Government on that point. It is unnecessary to repeat it, and I am unable to add to it.

In reply to the observations in my note to Lord Iddesleigh of September 11, 1886, on the point whether such discussion should be suspended in these cases until the result of the judicial proceedings in respect to them should be made known, a proposition to which, as I stated in that note, the United States Government is unable to accede, his lordship cites in support of it some language of Mr. Fish, when Secretary of State of the United States, addressed to the United States consul-general at Montreal in May, 1870. From the view then expressed by Mr. Fish the United States Government has neither disposition nor occasion to dissent. But it cannot regard it as in any way applicable to the present case.

It is true beyond question that when a private vessel is seized for an alleged infraction of the laws of the country in which the seizure takes place, and the fact of the infraction, or the exact legal construction of the local statute claimed to be transgressed, is in dispute, and is in process of determination by the proper tribunal, the Government to which the vessel belongs will not usually interfere in advance of such determination and before acquiring the information on which it depends. And especially when it is not yet informed whether the conduct of the officer making the seizure will not be repudiated by the Government under which he acts, so that interference will be unnecessary. This is all, in effect, that was said by Mr. Fish on that occasion. In language immediately following that quoted by Lord Iddesleigh he remarks as follows (italics being mine):

"The present embarrassment is that while we have reports of several seizures upon grounds as stated by the interested parties, which seem to be in contravention of international law and special treaties relating to the fisheries, these alleged causes of seizure are regarded as pretensions of over zealous officers of the British navy and the colonial vessels, which will, as we hope and are bound in courtesy to expect, be repudiated by the courts, before which our vessels are to be brought for adjudication."

But in the present case the facts constituting the alleged infraction by the vessel seized are not in dispute, except some circumstances of alleged aggravation not material to the validity of the seizure. The original ground of the seizure was the purchase by the master of the vessel of a small quantity of bait from an inhabitant of Nova Scotia, to be used in lawful fishing. This purchase is not denied by the owners of the vessel, and the United States Government insists, *first*, that such an act is not in violation of the treaty of 1818, and *second*, that no then existing statute in Great Britain or Canada authorized any proceedings against the vessel for such an act, even if it could be regarded as in violation of the terms of the treaty, and no such statute has been as yet produced.

In respect to the charge subsequently brought against the Adams, and upon which many other vessels have been seized, that of a technical violation of the customs act, in omitting to report at the custom-house, though having no business at the port (and in some instances where the vessel seized was not within several miles of the landing), the United States Government claim, while not admitting that the omission to report was even a technical transgression of the act, that even if it were, no harm having been done or intended, the proceedings against the vessels for an inadvertence of that sort were in a high degree harsh, unreasonable and unfriendly, especially as for many years no such effect has been given to the act in respect to the fishing vessels, and no previous notice of a change in its construction has been promulgated.

It seems apparent, therefore, that the cases in question, as they are to be considered between the two Governments, present no points upon which the decision of the courts of Nova Scotia need be awaited or would be material.

Nor is it any longer open to the United States Government to anticipate that the acts complained of will (as said by Mr. Fish in the dispatch above quoted) be repudiated as the "pretensions of overzealous officers of the . . . colonial vessels," because they have been so many times repeated as to constitute a regular system of procedure, have been directed and approved by the Canadian Government, and have been in no wise disapproved or restrained by Her Majesty's Government, though repeatedly and earnestly protested against on the part of the United States.

It is therefore to Her Majesty's Government alone that the United States Government can look for consideration and redress. It cannot consent to become, directly or indirectly, a party to the proceedings complained of, nor to await their termination before the questions involved between the two Governments shall be dealt with. Those questions appear to the United States Government to stand upon higher grounds, and to be determined, in large part, at least, upon very different considerations from those upon which the courts of Nova Scotia must proceed in the pending litigation.

Lord Iddesleigh, in the note above referred to, proceeds to express regret that no reply has yet been received from the United States Government to the arguments on all the points in controversy contained in the report of the Canadian minister of marine and fisheries, of which Lord Rosebery had sent me a copy.

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Inasmuch as Lord Iddesleigh and his predecessor, Lord Rosebery, have declined altogether, on the part of Her Majesty's Government, to discuss these questions until the cases in which they arise shall have been judicially decided, and as the very elaborate arguments on the subject previously submitted by the United States Government, remain, therefore without reply it is not easy to perceive why further discussion of it on the part of the United States should be expected. So soon as Her Majesty's Government consent to enter upon the consideration of the points involved, any suggestions it may advance will receive immediate and respectful attention on the part of the United States. Till then further argument on that side would seem to be neither consistent nor proper.

Still less can the United States Government consent to be drawn, at any time, into a discussion of the subject with the colonial Government of Canada. The treaty in question, and all the international relations arising out of it, exist, only between the Governments of the United States and of Great Britain, and between those Governments only can they be dealt with. If, in entering upon that consideration of the subject which the United States have insisted upon, the arguments contained in the report of the Canadian minister should be advanced by Her Majesty's Government, I do not conceive that they will be found difficult to answer.

Two suggestions contained in that report are, however, specially noticed by Lord Iddesleigh, as being "in reply" to the arguments contained in my note. In quoting the substance of the contentions of the Canadian minister on the particular points referred to, I do not understand his lordship to depart from the conclusion of Her Majesty's Government he had previously announced, declining to enter upon the discussion of the cases in which the questions arise. He presents the observations of the report only as those of the Canadian minister made in the argument of points upon which Her Majesty's Government decline at present to enter.

I do not, therefore, feel called upon to make any answer to these suggestions; and more especially as it seems obvious that the subject cannot usefully be discussed upon one or two suggestions appertaining to it, and considered by themselves alone. While those mentioned by Lord Iddesleigh have undoubtedly their place in the general argument, it will be seen that they leave quite untouched most of the propositions and reasoning set forth in my note to Lord Rosebery above mentioned. It appears to me that the question cannot be satisfactorily treated aside from the cases in which they arise, and that when discussed the whole subject must be gone into in its entirety.

The United States Government is not able to concur in the favorable view taken by Lord Iddesleigh of the efforts of the Canadian Government "to promote a friendly negotiation." That the conduct of that Government has been directed to obtaining a revision of the existing treaty is not to be doubted; but its efforts have been of such a character as to preclude the prospect of a successful negotiation so long as they continue, and seriously to endanger the friendly relations between the United States and Great Britain.

Aside from the question as to the right of American vessels to purchase bait in Canadian ports, such a construction has been given to the treaty between the United States and Great Britain as amounts virtually to a declaration of almost complete non-intercourse with American vessels. The usual comity between friendly nations has been refused in their case, and in one instance, at least, the ordinary offices of humanity. The treaty of friendship and amity which, in return for very important concessions by the United States to Great Britain, reserved to the American vessels certain specified privileges has been construed to exclude them from all other intercourse common to civilized life and to universal maritime usage among nations not at war, as well as from the right to touch and trade accorded to all other vessels.

And quite aside from any question arising upon construction of the treaty, the provisions of the custom-house acts and regulations have been systematically enforced against American ships for alleged petty and technical violations of legal requirements in a manner so unreasonable, unfriendly, and unjust as to render the privileges accorded by the treaty practically nugatory.

It is not for a moment contended by the United States Government that American vessels should be exempt from those reasonable port and custom-house regulations which are in force in countries which such vessels have occasion to visit. If they choose to violate such requirements, their Government will not attempt to screen them from the just legal consequences.

But what the United States Government complain of in these cases is that existing regulations have been construed with a technical strictness, and enforced with a severity, in cases of inadvertent and accidental violation where no harm was done, which is both unusual and unnecessary, whereby the voyages of vessels have been broken up and heavy penalties incurred. That the liberal and reasonable construction of these laws that had prevailed for many years, and to which the fishermen had become accustomed, was changed without any notice given. And that every opportunity of unnecessary interference with the American fishing vessels, to the prejudice and destruction of their business, has been availed of. Whether, in any of

these cases, a technical violation of some requirement of law had, upon close and severe construction, taken place, it is not easy to determine. But if such rules were generally enforced in such a manner in the ports of the world, no vessel could sail in safety without carrying a solicitor versed in the intricacies of revenue and port regulations.

It is unnecessary to specify the various cases referred to, as the facts in many of them have been already laid before her Majesty's Government.

Since the receipt of Lord Iddesleigh's note the United States Government has learned with grave regret that Her Majesty's assent has been given to the act of the Parliament of Canada, passed at its late session, entitled "An act further to amend the act respecting fishing by foreign vessels," which has been the subject of observation in the previous correspondence on the subject between the Governments of the United States and of Great Britain.

By the provisions of this act any foreign ship, vessel, or boat (whether engaged in fishing or not) found within any harbor in Canada, or within 3 marine miles of "any of the coasts, bays, or creeks of Canada," may be brought into port by any of the officers or persons mentioned in the act, her cargo searched, and her master examined upon oath touching the cargo and voyage under a heavy penalty if the questions asked are not truly answered; and if such ship has entered such waters "for any purpose not permitted by treaty or convention or by law of the United Kingdom or of Canada, for the time being in force, such ship, vessel, or boat and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited."

It has been pointed out in my note to Lord Iddesleigh, above mentioned, that the 3-mile limit referred to in this act is claimed by the Canadian Government to include considerable portions of the high seas, such as the Bay of Fundy, the Bay of Chaleur, and similar waters, by drawing the line from headland to headland, and that American fishermen had been excluded from those waters accordingly.

It has been seen also that the term "any purpose not permitted by treaty" is held by that Government to comprehend every possible act of human intercourse, except only the four purposes named in the treaty—shelter, repairs, wood, and water.

Under the provisions of the recent act, therefore, and the Canadian interpretation of the treaty, any American fishing vessel that may venture into a Canadian harbor, or may have occasion to pass through the very extensive waters thus comprehended, may be seized at the discretion of any one of numerous subordinate officers, carried into port, subjected to search and the examination of her master upon oath, her voyage broken up, and the vessel and cargo confiscated, if it shall be determined by the local authorities that she has ever even posted or received a letter or landed a passenger in any part of Her Majesty's dominions in America.

And it is publicly announced in Canada that a larger fleet of cruisers is being prepared by the authorities, and that greater vigilance will be exerted on their part in the next fishing season than in the last.

It is in the act to which the one above referred to is an amendment that is found the provision to which I drew attention in a note to Lord Iddesleigh of December 2, 1886, by which it is enacted that in case a dispute arises as to whether any seizure has or has not been legally made, the burden of proving the illegality of the seizure shall be upon the owner or claimant.

In his reply to that note of January, 11, 1887, his lordship intimates that this provision is intended only to impose upon a person claiming a license the burden of proving it. But a reference to the act shows that such is by no means the restriction of the enactment. It refers in the broadest and clearest terms to any seizure that is made under the provisions of the act, which covers the whole subject of protection against illegal fishing; and it applies not only to the proof of a license to fish, but to all questions of fact whatever, necessary to a determination as to the legality of a seizure or the authority of the person making it.

It is quite unnecessary to point out what grave embarrassments may arise in the relations between the United States and Great Britain under such administration as is reasonably to be expected of the extraordinary provisions of this act and its amendment, upon which it is not important at this time further to comment.

It will be for Her Majesty's Government to determine how far its sanction and support will be given to further proceedings, such as the United States Government have now repeatedly complained of and have just ground to apprehend may be continued by the Canadian authorities.

It was with the earnest desire of obviating the impending difficulty, and of preventing collisions and dispute until such time as a permanent understanding between the two Governments could be reached, that I suggested, on the part of the United States, in my note to Lord Iddesleigh of September 11, 1886, that an *ad interim* construction of the terms of the treaty might be agreed on, to be carried out by instructions to be given on both sides without prejudice to the ultimate claims of either, and terminable at the pleasure of either. In an interview I had the honor to have with his Lordship, in which this suggestion was discussed, I derived the impression that

he regarded it with favor. An outline of such an arrangement was therefore subsequently prepared by the United States Government, which, at the request of Lord Iddesleigh, was submitted to him.

But I observe, with some surprise, that in his note of November 30, last, his lordship refers to that proposal made in my note of 11th September, as a proposition that Her Majesty's Government "should temporarily abandon the exercise of the treaty rights which they claim and which they conceive to be indisputable."

In view of the very grave questions that exist as to the extent of those rights, in respect to which the views of the United States Government differ so widely from those insisted upon by Her Majesty's Government, it does not seem to me an unreasonable proposal that the two Governments, by a temporary and mutual concession, without prejudice, should endeavor to reach some middle ground of *ad interim* construction, by which existing friendly relations might be preserved, until some permanent treaty arrangements could be made.

The reasons why a revision of the treaty of 1818 cannot now, in the opinion of the United States Government, be hopefully undertaken, and which are set forth in my note to Lord Iddesleigh of September 11, have increased in force since that note was written.

I again respectfully commend the proposal above mentioned to the consideration of Her Majesty's Government.

I have, &c.

E. J. PHELPS.

The most honorable the MARQUIS OF SALISBURY, K. G.

No. 18.

Mr. Bayard to Mr. Phelps.

No. 528.]

DEPARTMENT OF STATE,

Washington, February 1, 1887.

SIR: I received on the 29th ultimo a reply from the British minister at this capital to my notes to him of the 19th and 20th of October last relative to the cases of the American fishing vessels "Pearl Nelson" and "Everett Steele."

The note of Sir Lionel West serves only to inclose the communication of the Marquis of Lansdowne to Mr. Stanhope. Whilst the letter of Lord Lansdowne proceeds upon the assumption of grounds never accepted by this Government as the basis of discussion of the rights of our fishermen, and fails to admit the obvious and essential right of American fishermen to resort for purposes not abusive of the ancient privileges guaranteed by the treaty of 1818, in the Canadian bays and harbors, yet I am glad to see that the tone of his discussion indicates the growth of a disposition to consider the case of the American fishermen in a more friendly light than heretofore in the discussions of the past season.

The letters will be communicated to Congress as supplementary to the information heretofore laid before them by the President.

I am, &c.,

T. F. BAYARD.

III.—MISCELLANEOUS.

No. 10.

Mr. Hotchkiss to Mr. Parker.

No. 95.]

UNITED STATES CONSULATE,
Ottawa, January 3, 1887. (Received January 5.)

SIR: I have the honor to transmit, under separate cover, addressed to the State Department, a printed copy of the amended fisheries act, as approved by the Queen.

I am, sir, your obedient servant,

THOS. W. HOTCHKISS,
United States Commercial Agent.

LANSDOWNE. [L. S.]

CANADA.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland,
Queen, Defender of the Faith, &c., &c., &c.

To all to whom these presents shall come, or whom the same may in any wise concern, greeting:

A PROCLAMATION.

JNO. S. D. THOMPSON,
Attorney-General, Canada.

Whereas in and by the fifty-fifth section of a certain act of the Parliament of our United Kingdom of Great Britain and Ireland, passed in the session thereof, held in the thirtieth and thirty-first years of our reign, and intituled "An act for the union of Canada, Nova Scotia, and New Brunswick and the government thereof, and for purposes connected therewith," it is in effect enacted, that where a bill passed by the houses of Parliament is presented to the governor-general for our assent, he shall declare according to his discretion, but subject to the provisions of the act in recital and to our instructions, either that he assents thereto in our name, or that he withholds our assent, or that he reserves the bill for the signification of our pleasure;

And whereas in and by the fifty-seventh section of the said act it is in effect enacted that a bill reserved for the signification of our pleasure shall not have any force unless and until within two years from the day on which it was presented to the governor-general for our assent, the governor-general signifies by speech or message to each of the houses of Parliament or by proclamation that it has received the assent of us in council;

And whereas at the session of the Parliament of Canada held in the forty-ninth year of our reign a certain bill intituled "An act further to amend the act respecting fishing by foreign vessels" was passed in and by the Senate and the House of Commons, and was subsequently presented to the most honorable Sir Henry Charles Keith Petty Fitzmaurice, Marquis of Lansdowne, our governor-general of Canada, for our assent thereto, and our said governor-general did, in pursuance of the authority vested in him by the said first above recited act, declare that he reserved the said bill for the signification of our pleasure;

And whereas the said bill was laid before us, in our most honorable privy council, at the court at Windsor, on the twenty-sixth day of November, in the year of our Lord one thousand eight hundred and eighty-six, whereupon we were pleased, by and with the advice of our privy council aforesaid, to declare our assent to the said bill:

Now know ye that we have been pleased, according to the provisions of the said act of the Parliament of the United Kingdom of Great Britain and Ireland, to signify, and do by this our proclamation signify, that the said bill intituled "An act further to amend the act respecting fishing by foreign vessels," has received our assent in council.

In testimony whereof we have caused these our letters to be made patent, and the great seal of Canada to be hereunto affixed. Witness our right trusty and entirely beloved cousin the most honorable Sir Henry Charles Keith Petty Fitzmaurice, Marquis of Lansdowne, in the county of Somerset, Earl of Wycombe, of Chipping Wycombe,

in the county of Bucks, Viscount Calne and Calnstone, in the county of Wilts, and Lord Wycombe, Baron of Chipping Wycombe, in the county of Bucks, in the peerage of Great Britain; Earl of Kerry and Earl of Shelburne, Viscount Clannaurice and Fitzmaurice, Baron of Kerry, Lixnaw, and Dunkerron, in the peerage of Ireland; Knight Grand Cross of our most Distinguished Order of Saint Michael and Saint George; governor-general of Canada, and Vice-Admiral of the same.

At our Government House, in our city of Ottawa, this twenty-fourth day of December, in the year of our Lord one thousand eight hundred and eighty-six, and in the fiftieth year of our reign.

By command:

J. A. CHAPLEAU,
Secretary of State.

CONSULATE,
received January 5.)
to cover, addressed
ended fisheries act,

[40 Victoria.. Chap. 114.]

An act further to amend the act respecting fishing by foreign vessels.

[Reserved by the governor-general on Wednesday, 2d June, 1886, for the signification of the Queen's pleasure thereon. Royal assent given by Her Majesty in council on the 26th day of November, 1886. Proclamation thereof made on the 24th day of December, 1886.]

Whereas it is expedient, for the more effectual protection of the inshore fisheries of Canada against intrusion by foreigners, to further amend the act intituled, "An act respecting fishing by foreign vessels," passed in the thirty-first year of Her Majesty's reign, and chaptered sixty-one:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

(1) The section substituted by the first section of the act thirty-third Victoria, chapter 15, intituled "An act to amend the act respecting fishing by foreign vessels," for the third section of the hereinbefore recited act, is hereby repealed, and the following section substituted in lieu thereof:

"3. Any one of the officers or persons hereinbefore mentioned may bring any ship, vessel, or boat, being within any harbor in Canada, or hovering in British waters within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, into port, and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command does not truly answer the questions put to him in such examination, he shall incur a penalty of \$400; and if such ship, vessel, or boat is foreign, or not navigated according to the laws of the United Kingdom or of Canada, and (a) has been found fishing or preparing to fish, or to have been fishing in British waters within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the term named in the last license granted to such ship, vessel, or boat, under the first section of this act, or (b) has entered such waters for any purpose not permitted by treaty or convention, or by any law of the United Kingdom, or of Canada, for the time being in force, such ship, vessel, or boat and the tackle, rigging, apparel, furniture, stores, and cargo thereof, shall be forfeited."

(2) The acts mentioned in the schedule hereto are hereby repealed.

(3) This act shall be construed as one with the said "Act respecting fishing by foreign vessels," and the amendments thereto.

SCHEDULE.

Acts of the legislature of the Province of Nova Scotia.

Year, reign, and chapter.	Title of act.	Extent of repeal.
Revised Statutes, 3d series, c. 94.	Of the coast and deep-sea fisheries.....	The whole.
30 Vic. (1866), c. 25.....	An act to amend chapter 9 of the Revised Statutes, "Of the coast and deep-sea fisheries."	The whole.

Act of the legislature of the Province of New Brunswick.

30 Vic. (1863), c. 60.....	An act relating to the coast fisheries and for the prevention of illicit trade.	The whole.
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HOTCHKISS,
Commercial Agent.

ent Britain and Ireland,
&c.

anywise concern, greeting:

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LETTER

FROM

THE SECRETARY OF STATE,

TRANSMITTING

Revised list of vessels involved in the controversy with the Canadian authorities.

JANUARY 27, 1887.—Ordered to be printed, and also to be bound with Senate Report No. 1683.

DEPARTMENT OF STATE,
Washington, January 26, 1887.

SIR: Responding to your request, dated the 17th and received at this Department on the 18th instant, on behalf of the Committee on Foreign Relations, for a revision of the list, heretofore furnished by this Department to the committee, of all American vessels seized, warned, fined, or detained by the Canadian authorities during the year 1886, I now inclose the same.

Every such instance is therein chronologically enumerated, with a statement of the general facts attendant.

Very respectfully, yours,

T. F. BAYARD.

HON. GEORGE F. EDMUNDS,
United States Senate.

List of American vessels seized, detained, or warned off from Canadian ports during the last year.

Sarah B. Putnam.—Beverly, Mass.; Charles Randolph, master.
Driven from harbor of Pubnico in storm March 22, 1886.

Joseph Story.—Gloucester, Mass.
Detained by customs officers at Baddeck, N. S., in April, 1886, for alleged violation of the customs laws. Released after twenty-four hours' detention.

Seth Stockbridge.—Gloucester, Mass.; Antone Olson, master.
Warned off from St. Andrews, N. B., about April 30, 1886.

Annie M. Jordan.—Gloucester, Mass.; Alexander Haine, master.
Warned off at St. Andrews, New Brunswick, about May 4, 1886.

David J. Adams.—Gloucester, Mass.; Alden Kinney, master.
Seized at Digby, Nova Scotia, May 7, 1886, for alleged violation of treaty of 1818, act of 59, George III, and act of 1833. Two suits brought in vice admiralty court at Halifax for penalties. Protest filed May 12. Suits pending still, and vessel not yet released apparently.

Qu'se Cooper.—(Hooper?) Gloucester(?), Mass.

Boarded and searched, and crew rudely treated, by Canadian officials in Canso Bay, Nova Scotia, May, 1886.

Ella M. Doughty.—Portland, Me.; Warren A. Doughty, master.

Seized at St. Ann's, Cape Breton, May 17, 1886, for alleged violation of the customs laws. Suit was instituted in vice admiralty court at Halifax, Nova Scotia, but was subsequently abandoned, and vessel was released June 20, 1886.

Jennie and Julia.—Eastport, Me.; W. H. Travis, master.

Warned off at Digby, Nova Scotia, by customs officers, May 18, 1886.

Lucey Ann.—Gloucester, Mass.; Joseph H. Smith, master.

Warned off at Yarmouth, Nova Scotia, May 29, 1886.

Matthew Keany.—Gloucester, Mass.

Detained at Souris, Prince Edward Island, one day for alleged violation of customs laws, at cut May 31, 1886.

James A. Garfield.—Gloucester, Mass.

Threatened, about June 1, 1886, with seizure for having purchased bait in a Canadian harbor.

Martha W. Brady.—Gloucester, Mass.; J. F. Ventier, master.

Warned off at Canso, Nova Scotia, between June 1 and 8, 1886.

Eliza Doynton.—Gloucester, Mass.; George E. Martin, master.

Warned off at Canso, Nova Scotia, between June 1 and 9, 1886. Then afterwards detained in manner not reported, and released October 25, 1886.

Mascot.—Gloucester, Mass.; Alexander McEachern, master.

Warned off at Port Amherst, Magdalen Islands, June 10, 1886.

Thomas F. Bayard.—Gloucester, Mass.; James McDonald, master.

Warned off at Bonne Bay, Newfoundland, June 12, 1886.

James G. Craig.—Portland, Me.; Webber, master.

Crew refused privilege of landing for necessities at Brooklyn, Nova Scotia, June 15 or 16, 1886.

City Point.—Portland, Me.; Keene, master.

Detained at Shelburne, Nova Scotia, July 2, 1886, for alleged violation of customs laws. Penalty of \$400 demanded. Money deposited, under protest, July 12, and in addition \$120 costs deposited July 14. Fine and costs refunded July 21, and vessel released August 26. Harbor dues exacted August 26, notwithstanding vessel had been refused all the privileges of entry.

C. P. Harrington.—Portland, Me.; Frellick, master.

Detained at Shelburne, Nova Scotia, July 3, 1886, for alleged violation of customs laws; fined \$400 July 5; fine deposited, under protest, July 12; \$120 costs deposited July 14; refunded July 21, and vessel released.

Hereford.—Gloucester, Mass.; McDonald, master.

Detained two days at Canso, Nova Scotia, about July 3, 1886, for shipping seamen contrary to port laws.

G. W. Cushing.—Portland, Me.; Jewett, master.

Detained July (by another report, June) 3, 1886, at Shelburne, Nova Scotia, for alleged violation of the customs laws; fined \$400; money deposited with collector at Halifax about July 12 or 14, and \$120 for costs deposited 14th; costs refunded July 21, and vessel released.

Golden Hind.—Gloucester, Mass.; Ruben Cameron, master.

Warned off at Bay of Chaleurs, Nova Scotia, on or about July 23, 1886.

Novelty.—Portland, Me.; H. A. Joyce, master.

Warned off at Pictou, Nova Scotia, June 29, 1886, where vessel had entered for coal and water; also refused entrance at Amherst, Nova Scotia, July 24.

N. J. Miller.—Booth Bay, Me.; Dickson, master.

Detained at Hopewell Cape, New Brunswick, for alleged violation of customs laws, on July 24, 1886. Fined \$400.

Rattler.—Gloucester, Mass.; A. F. Cunningham, master.

Warned off at Canso, Nova Scotia, June, 1886. Detained in port of Shelburne, Nova Scotia, where vessel entered seeking shelter August 3, 1886. Kept under guard all night and released on the 4th.

Caroline Fought.—Booth Bay, Me.; Charles S. Reed, master.

Warned off at Paspébiac, New Brunswick, and refused water, August 4, 1886.

Shiloh.—Gloucester, Mass.; Charles Nevit, master.

Boarded at Liverpool, Nova Scotia, August 9, and subjected to rude surveillance.

Julia Ellen.—Booth Bay, Me.; Burnes, master.

Boarded at Liverpool, Nova Scotia, August 9, 1886, and subjected to rude surveillance.

Freddie W. Allton.—Provincetown, Mass.; Allton, master.

Boarded at Liverpool, Nova Scotia, August 9, 1886, and subjected to rude surveillance.

Howard Holbrook.—Gloucester, Mass.

Detained at Hawkesburg, Cape Breton, August 17, 1886, for alleged violation of the customs laws. Released August 20 on deposit of \$400. Question of remission of fine still pending.

A. R. Crittenden.—Gloucester, Mass.; Bain, master.

Detained at Hawkesburg, Nova Scotia, August 27, 1886, for alleged violation of customs laws. Four hundred dollars penalty deposited August 28 without protest, and vessel released. Three hundred and seventy-five dollars remitted, and a nominal fine of \$25 imposed.

Mollie Adams.—Gloucester, Mass.; Solomon Jacobs, master.

Warned off into storm from Straits of Canso, Nova Scotia, August 31, 1886.

Highland Light.—Wellfleet, Mass.; J. H. Ryder, master.

Seized off East Point, Prince Edward Island, September 1, 1886, while fishing within prohibited line. Suit for forfeiture begun in vice-admiralty court at Charlottetown. Hearing set for September 20, but postponed to September 30. Master admitted the charge and confessed judgment. Vessel condemned and sold December 14. Purchased by Canadian Government.

Pearl Nelson.—Provincetown, Mass.; Kemp, master.

Detained at Arichat, Cape Breton, September 8, 1886, for alleged violation of customs laws. Released September 9, on deposit of \$200. Deposit refunded October 26, 1886.

Pioneer.—Gloucester, Mass.; F. F. Cruched, master.

Warned off at Canso, Nova Scotia, September 9, 1886.

Everett Steel.—Gloucester, Mass.; Charles H. Forbes, master.

Detained at Shelburne, Nova Scotia, September 10, 1886, for alleged violation of customs laws. Released by order from Ottawa, September 11, 1886.

Moro Castle.—Gloucester, Mass.; Edwin M. Joyce, master.

Detained at Hawksbury, Nova Scotia, September 11, 1886, on charge of having smuggled goods into Chester, Nova Scotia, in 1884, and also of violating customs laws. A deposit of \$1,000 demanded. Vessel discharged November 29, 1886, on payment, by agreement, of \$1,000 to Canadian Government.

William D. Daisley.—Gloucester, Mass.; J. E. Gorman, master.

Detained at Souris, Prince Edward Island, October 4, 1886, for alleged violation of customs law. Fined \$400, and released on payment; \$375 of the fine remitted.

Laura Sayward.—Gloucester, Mass.; Medeo Rose, master.

Refused privilege of landing to buy provisions at Shelburne, Nova Scotia, October 5, 1886.

Marion Grimes.—Gloucester, Mass.

Detained at Shelburne, Nova Scotia, October 9, for violation of port laws in failing to report at custom house on entering. Fined \$400. Money paid under protest and vessel released. Fine remitted December 4, 1886.

Jennie Seaverns.—Gloucester, Mass.; Joseph Tupper, master.

Refused privilege of landing, and vessel placed under guard at Liverpool, Nova Scotia, October 20, 1886.

Flying Scud.—Gloucester, Mass.

Detained for alleged violation of customs laws at Halifax, November 1, or about that time. Released November 16, 1886.

Sarah H. Prior.—Boston, Mass.

Refused the restoration of a lost seine, which was found by a Canadian schooner, December, 1886.

August 4, 1886.

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Boat (name unknown).—Stephen R. Balcom, master, Eastport, Me.
Warped off at St. Andrews, New Brunswick, July 9, 1886, with others.

Two small boats (unnamed).—Charles Smith, Pembroke, Me., master.
Seized at East Quaddy, New Brunswick, September 1, 1886, for alleged violation of
customs laws.

Druid (foreign built).—Gloucester, Mass.
Seized, warned off, or molested otherwise at some time prior to September 6, 1886.

Abbey A. Snow.—Injury to this vessel has not been reported to the Department of
State.

Eliza A. Thomas.—Injury to this vessel has not been reported to the Department of
State.

W/-Awake.—Eastport, Me.; William Foley, master.
Fined at L'Etang, New Brunswick, \$75 for taking away fish without getting a
clearance; again November 13, 1886, at St. George, New Brunswick, fined \$20 for
similar offense. In both cases he was proceeding to obtain clearances.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 8, 1887.—Ordered to be printed.

Mr. EDMUNDS submitted the following

COMMUNICATION FROM SPENCER F. BAIRD, UNITED STATES COMMISSIONER OF FISH AND FISHERIES.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., February 5, 1887.

SIR: I forward herewith, for your information, a copy of a communication from Mr. R. Edward Earll, in charge of the Division of Fisheries of this Commission, accompanied by a list of New England fishing vessels which have been inconvenienced by their fishing operations by the Canadian authorities during the past season; these being in addition to the vessels mentioned in the revised list of vessels involved in the controversy with the Canadian authorities, furnished to your committee on January 26 by the Secretary of State.

The papers containing the statements were received from the owners, masters, or agents of the vessels concerned, and, though not accompanied by affidavits, are believed to be correct.

Very respectfully, yours,

SPENCER F. BAIRD,
Commissioner.

HON. GEORGE F. EDMUNDS,
Chairman Committee on Foreign Relations, United States Senate.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C. February 5, 1887.

SIR: Some time since, at your request, I mailed circulars to owners or agents of all New England vessels employed in the food-fish fisheries. These called for full statistics of the vessels' operations during the year 1886, and, in addition, for statements of any inconveniences to which the vessels had been subjected by the recent action of the Canadian Government in denying to American fishing vessels the right to buy bait, ice, or other supplies in its ports, or in placing unusual restrictions on the use of its harbors for shelter.

A very large percentage of the replies to these circulars have already been received, and an examination of same shows that, in addition to the vessels mentioned in the revised list transmitted by the Secretary of State to the Committee on Foreign Relations of the United States Senate on January 26, 1887, sixty-eight other New England fishing vessels have been subjected to treatment which neither the treaty of 1818 nor the principles of international law would seem to warrant.

I inclose for your consideration a list of these vessels, together with a brief abstract of the statements of the owners or masters regarding the treatment received. The statements were not accompanied by affidavits, but are believed to be entirely reliable. The name and address of the informant are given in each instance.

Very respectfully, yours,

R. EDWARD EARLL,
In Charge Division of Fisheries.

Prof. SPENCER F. BAIRD,
U. S. Commissioner of Fish and Fisheries.

PARTIAL LIST OF VESSELS INVOLVED IN THE FISHERIES CONTROVERSY WITH THE CANADIAN AUTHORITIES, FROM INFORMATION FURNISHED TO THE UNITED STATES COMMISSIONER OF FISH AND FISHERIES.

[Supplementing a list transmitted to the Committee on Foreign Relations, United States Senate, by the Secretary of State, January 26, 1887.]

- Eliza A. Thomas* (schooner).—Portland, Me.; E. S. Bibbs, master. Wrecked on Nova Scotia shore, and unable to obtain assistance. Crew not permitted to land or to save anything until permission was received from captain of cutter. Canadian officials placed guard over fish saved, and everything saved from wreck narrowly escaped confiscation. (From statements of C. D. Thomas, owner, Portland, Me.)
- Christina Ellsworth* (schooner).—Eastport, Me.; James Ellsworth, master. Entered Port Hastings, Cape Breton, for wood; anchored at 10 o'clock, and reported at custom-house. At 2 o'clock was boarded by captain of cutter Hector and ordered to sea, being forced to leave without wood. In every harbor entered was refused privilege of buying anything. Anchored under lee of land in no harbor, but was compelled to enter at custom-house. In no two harbors were the fees alike. (From statements of James Ellsworth, owner and master, Eastport, Me.)
- Mary E. Whorf* (schooner).—Wellfleet, Mass.; Simon Berrio, master. In July, 1886, lost seine off North Cape, Prince Edward Island, and not allowed to make any repairs on shore, causing a broken voyage and a long delay. Ran short of provisions, and being denied privilege of buying any on land, had to obtain from another American vessel. (From statements of Freeman A. Snow, owner, Wellfleet, Mass.)
- Stowell Sherman* (schooner).—Provincetown, Mass.; S. F. Hatch, master. Not allowed to purchase necessary supplies, and obliged to report at custom-houses, situated at distant and inconvenient places; ordered out of harbors in stress of weather, namely, out of Casempee harbor, Prince Edward Island, nineteen hours after entry, and out of Malpeque harbor, Prince Edward Island, fifteen hours after entry, wind then blowing too hard to admit of fishing. Returned home with broken trip. (From statements of Samuel T. Hatch, owner and master, Provincetown, Mass.)
- Walter L. Rich* (schooner).—Wellfleet, Mass.; Obadiah Rich, master. Ordered out of Malpeque, P. E. I., in unsuitable weather for fishing, having been in harbor only 12 hours. Denied right to purchase provisions. Forced to enter at custom-house at Port Hawkesbury, C. B., on Sunday, collector fearing that vessel would leave before Monday and he would thereby lose his fee. (From statements of Obadiah Rich, owner and master, Wellfleet, Mass.)
- Bertha D. Nickerson* (schooner).—Booth Bay, Me.; N. E. Nickerson, master. Occasioned considerable expense by being denied Canadian harbors to procure crew, and detained in spring while waiting for men to come from Nova Scotia. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)
- Newell B. Hawes* (schooner).—Wellfleet, Mass.; Thomas C. Kennedy, master. Refused privilege of buying provisions in ports on Bay St. Lawrence, and in consequence obliged to leave for home with half a cargo. Made harbor at Shelburne, Nova Scotia, in face of storm, at 5 p. m., and master immediately started for custom-house, 5 miles distant, meeting captain of cutter Terror on way, to whom he explained errand. On returning, found two armed men from cutter on his vessel. At 7 o'clock next morning was ordered to sea, but refused to go in the heavy fog. At 9 o'clock the fog lifted slightly and, though the barometer was very low and a storm imminent, vessel was forced to leave. Soon met the heavy gale, which split sails, causing considerable damage. Captain of Terror denied claim to right of remaining in harbor twenty-four hours. (From statements of T. C. Kennedy, part owner and master, Wellfleet, Mass.)

- Helen F. Tredick* (schooner).—Cape Porpoise, Me.; R. J. Nunan, master. July 20, 1886, entered Port Latour, N. S., for shelter and water. Was ordered immediately to sea. (From statements of R. J. Nunan, owner and master, Cape Porpoise, Me.)
- Nellie M. Snow* (schooner).—Wellfleet, Mass.; A. E. Snow, master. Was not allowed to purchase provisions in any Canadian ports, or to refit or land and ship fish, consequently obliged to leave for home with broken trip. Not permitted to remain in ports longer than local Canadian officials saw fit. (From statements of J. C. Young, owner, Wellfleet, Mass.)
- Gertrude Summers* (schooner).—Wellfleet, Mass.; N. S. Snow, master. Refused privilege of purchasing provisions, which resulted in injury to voyage. Found harbor regulations uncertain. Sometimes could remain in port twenty-four hours, again was ordered out in three hours. (From statements of N. S. Snow, owner and master, Wellfleet, Mass.)
- Charles R. Washington* (schooner).—Wellfleet, Mass.; Jesse S. Snow, master. Master was informed by collector at Ship Harbor, C. B., that if he bought provisions, even if actually necessary, he would be subject to a fine of \$400 for each offense. Refused permission by the collector at Souris, P. E. I., to buy provisions, and was compelled to return home September 10, before close of fishing season. Was obliged to report at custom-house every time he entered a harbor, even if only for shelter. Found no regularity in the amount of fees demanded, this being apparently at the option of the collector. (From statements of Jesse S. Snow, owner and master, Wellfleet, Mass.)
- John M. Ball* (schooner).—Provincetown, Mass.; N. W. Freeman, master. Driven out of Gulf of St. Lawrence to avoid fine of \$400 for landing two men in the port of Malpeque, P. E. I. Was denied all supplies, except wood and water, in same port. (From statements of N. W. Freeman, owner and master, Provincetown, Mass.)
- Zephyr* (schooner).—Eastport, Me.; Warren Pulk, master. Cleared from Eastport, May 31, 1886, under register for West Isles, N. B., to buy herring. Collector refused to enter vessel, telling captain that if he bought fish, which were plenty at the time, the vessel would be seized. Returned to Eastport, losing about a week, which resulted in considerable loss to owner and crew. (From statements of Guilford Mitchell, owner, Eastport, Me.)
- Abdon Keene* (schooner).—Bremen, Me.; William C. Keene, master. Was not allowed to ship or land crew at Nova Scotia ports, and owner had to pay for their transportation to Maine. (From statements of William C. Keene, owner and master, Bremen, Me.)
- William Keene* (schooner).—Portland, Me.; Daniel K. Aball, master. Not allowed to ship a man or to send a man ashore except for water, at Liverpool, N. S., and ordered to sea as soon as water was obtained. (From statements of Henry Trefethen, owner, Peak's Island, Me.)
- John Nye* (schooner).—Swan's Island, Me.; W. L. Joyce, master. After paying entry fees and harbor dues was not allowed to buy provisions at Malpeque, P. E. I., and had to return home for same, making a broken trip. (From statements of W. L. Joyce, owner and master, Atlantic, Me.)
- Asa H. Pervers* (schooner).—Wellfleet, Mass.; A. B. Gore, master. Entered harbor for shelter; ordered out after 24 hours. Denied right to purchase food. (From statements of S. W. Kemp, agent, Wellfleet, Mass.)
- Nathan Cleaves* (schooner).—Wellfleet, Mass.; P. E. Hickman, master. Ran short of provisions, and, not being permitted to buy, left for home with a broken voyage. Customs officer at Port Mulgrave, Nova Scotia, would allow purchase of provisions for homeward passage, but not to continue fishing. (From statements of Parker E. Hickman, owner and master, Wellfleet, Mass.)
- Frank G. Rich* (schooner).—Wellfleet, Mass.; Charles A. Gorham, master. Not permitted to buy provisions or to lay in Canadian ports over twenty-four hours. (From statements of Charles A. Gorham, owner and master, Wellfleet, Mass.)
- Emma O. Curtis* (schooner).—Provincetown, Mass.; Elisha Rich, master. Not allowed to purchase provisions, and therefore obliged to return home. (From statements of Elisha Rich, owner and master, Provincetown, Mass.)
- Pleiades* (schooner).—Wellfleet, Mass.; F. W. Snow, master. Driven from harbor within twenty-four hours after entering. Not allowed to ship or discharge men under penalty of \$400. (From statements of F. W. Snow, owner and master, Wellfleet, Mass.)
- Charles F. Atwood* (schooner).—Wellfleet, Mass.; Michael Burrows, master. Captain was not permitted to refit vessel or to buy supplies, and when out of food had to return home. Found Canadians disposed to harass him and put him to many inconveniences. Not allowed to land seine on Canadian shore for purpose of repairing same. (From statements of Michael Burrows, owner and master, Wellfleet, Mass.)

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Gertie May (schooner).—Portland, Me.; I. Doughty, master. Not allowed, though provided with permit to touch and trade, to purchase fresh bait in Nova Scotia, and driven from harbors. (From statements of Charles F. Guptill, owner, Portland, Me.)

Margaret S. Smith (schooner).—Portland, Me.; Lincoln W. Jewett, master. Twice compelled to return home from Bay of St. Lawrence with broken trip, not being able to secure provisions to continue fishing. Incurred many petty inconveniences in regard to customs regulations. (From statements of A. M. Smith, owner, Portland, Me.)

Elsie M. Smith (schooner).—Portland, Me.; Enoch Bulger, master. Came home with half fare, not being able to get provisions to continue fishing. Lost seine in a heavy gale rather than be annoyed by customs regulations when seeking shelter. (From statements of A. M. Smith, Portland, Me.)

Fannie A. Spurling (schooner).—Portland, Me.; Caleb Parris, master. Subject to many annoyances, and obliged to return home with a half fare, not being able to procure provisions. (From statements of A. M. Smith, owner, Portland, Me.)

Carleton Bell (schooner).—Booth Bay, Me.; Seth W. Eldridge, master. Occasioned considerable expense by being denied right to procure crew in Canadian harbors, and detained in spring while waiting for men to come from Nova Scotia. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)

Abbie M. Deering (schooner).—Portland, Me.; Emery Gott, master. Not being able to procure provisions, obliged to return home with a third of a fare of mackerel. (From statements of A. M. Smith, owner, Portland, Me.)

Cora Louisa (schooner).—Booth Bay, Me.; Obed Harris, master. Could get no provisions in Canadian ports and had to return home before getting full fare of fish. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)

Eben Dale (schooner).—North Haven, Me.; R. G. Babbidge, master. Not permitted to buy bait, ice, or to trade in any way. Driven out of harbors, and unreasonable restrictions whenever near the land. (From statements of R. G. Babbidge, owner and master, Pulpit Harbor, Me.)

Charles Haskell (schooner).—North Haven, Me.; Daniel Thurston, master. Obligated to leave Gulf of St. Lawrence at considerable loss, not being allowed to buy provisions. (From statements of C. S. Staples, owner, North Haven, Me.)

Willie Parkman (schooner).—North Haven, Me.; William H. Banks, master. Unable to get supplies while in Gulf of St. Lawrence, which necessitated returning home at great loss, with a broken voyage. (From statements of William H. Banks, owner and master, North Haven, Me.)

D. D. Geyer (schooner).—Portland, Me.; John K. Craig, master. Being refused privilege of touching at a Nova Scotia port to take on resident crew already engaged, owner was obliged to provide passage for men to Portland, at considerable cost, causing great loss of time. (From statements of F. H. Jordan, owner, Portland, Me.)

Good Templar (schooner).—Portland, Me.; Elias Tarlton, master. Touched at La Have, Nova Scotia, to take on crew already engaged, but was refused privilege and ordered to proceed. The men being indispensable to voyage, had them delivered on board outside of three-mile limit by a Nova Scotia boat. (From statements of Henry Trefethen, owner, Peak's Island, Maine.)

Eddie Davidson (schooner).—Wellfleet, Mass.; John D. Snow, master. Jun. 2, 1886, touched at Cape Island, Nova Scotia, but was not permitted to take on part of crew. Boarded by customs officer and ordered to sail within twenty-four hours. Not allowed to buy food in ports on Gulf of St. Lawrence. (From statements of John D. Snow, owner and master, Wellfleet, Mass.)

Alice P. Higgins (schooner).—Wellfleet, Mass.; Alvin W. Cobb, master. Driven from harbors twice in stress of weather. (From statements of Alvin W. Cobb, master, Wellfleet, Mass.)

Cynosure (schooner).—Booth Bay, Me.; L. Rush, master. Was obliged to return home before securing a full cargo, not being permitted to purchase provisions in Nova Scotia. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)

Naiad (schooner).—Lubec, Me.; Walter Kennedy, master. Presented frontier license (heretofore acceptable) on arriving at St. George, N. B., but collector would not recognize same; was compelled to return to Eastport and clear under register before being allowed to purchase herring, thus losing one trip. (From statements of Walter Kennedy, master, Lubec, Me.)

Louisa A. Grout (schooner).—Provincetown, Mass.; Joseph Hatch, Jr., master. Took permit to touch and trade; arrived at St. Peter's, Cape Breton, in afternoon of May 19, 1886; entered and cleared according to law; was obliged to take inexperienced men at their own prices to complete fishing crew, to get to sea before the arrival of a seizing officer who had started from Straits of Canso at 5 o'clock same afternoon in search of vessel, having been advised by telegraph of the shipping of men. (From statements of Joseph Hatch, Jr., owner and master, Provincetown, Mass.)

- Lottie E. Hopkins* (schooner).—Vinal Haven, Me.; Emery J. Hopkins, master. Refused permission to buy any article of food in Canadian ports. Obtained shelter in harbors only by entering at custom-house. (From statement of Emery J. Hopkins, owner and master, North Haven, Me.)
- Florine F. Nickerson* (schooner).—Chatham, Mass.; Nathaniel E. Eldridge, master. Engaged fishermen for vessel at Liverpool, Nova Scotia, but action of Canadian Government necessitated the paying of their transportation to the United States and loss of time to vessel while awaiting their arrival; otherwise would have called for them on way to fishing grounds. Returning, touched at Liverpool, but immediately on anchoring, Canadian officials came aboard and refused permission for men to go ashore. Captain at once signified his intention of immediately proceeding on passage, but officer prevented his departure until he had reported at custom-house, vessel being thereby detained two days. (From statement of Kendrick & Bearse, owners, South Harwich, Mass.)
- B. B. B.* (sloop).—Eastport, Me.; George W. Copp, master. Obligated to discontinue business of buying sardine herring in New Brunswick ports for Eastport canneries, as local customs regulations were, during the season of 1886, made so exacting that it was impossible to comply with them without risk of the fish becoming stale and spoiled by detention. (From statements of George W. Copp, master, Eastport, Me.)
- Sir Knight* (schooner).—Southport, Me.; Mark Rand, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing grounds. (From statements of William T. Maddocks, owner, Southport, Me.)
- Uncle Joe* (schooner).—Southport, Me.; J. W. Pierce, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing grounds. (From statements of William T. Maddocks, owner, Southport, Me.)
- Willie G.* (schooner).—Southport, Me.; Albert F. Orne, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing grounds. (From statements of William T. Maddocks, owner, Southport, Me.)
- Lady Elgin* (schooner).—Southport, Me.; George W. Pierce, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing grounds. (From statements of William T. Maddocks, owner, Southport, Me.)
- John H. Kennedy* (schooner).—Portland, Me.; David Dougherty, master. Called at a Nova Scotia port for bait, but left without obtaining same, fearing seizure and fine, returning home with a broken voyage. At a Newfoundland port was charged \$16 light-house dues, giving draft on owners for same, which, being excessive, they refused to pay. (From statements of E. G. Willard, owner, Portland, Me.)
- Ripley Ropes* (schooner).—Southport, Me.; C. E. Hare, master. Vessel ready to sail when telegram from authorities at Ottawa refused permission to touch at Canadian ports to ship men; consequently, obliged to pay for their transportation to Maine, and vessel detained while awaiting their arrival. (From statements of Freeman Orne & Son, owners, Southport, Me.)
- Jennie Armstrong* (schooner).—Southport, Me.; A. O. Webber, master. Vessel ready to sail when telegram from authorities at Ottawa refused permission to touch at Canadian ports to ship men; consequently, obliged to pay for their transportation to Maine, and vessel detained while awaiting their arrival. (From statements of Freeman Orne & Son, owners, Southport, Me.)
- Vanguard* (schooner).—Southport, Me.; C. C. Dyer, master. Vessel ready to sail when telegram from authorities refused permission to touch at Canadian ports to ship men; consequently obliged to pay for their transportation to Maine, and vessel detained while awaiting their arrival. (From statements of Freeman Orne & Son, owners, Southport, Me.)
- Electric Flash* (schooner).—North Haven, Me.; Aaron Smith, master. Unable to obtain supplies in Canadian ports and obliged to return home before obtaining full cargo. (From statements of Aaron Smith, master and agent, North Haven, Me.)
- Daniel Simmons* (schooner).—Swan's Island, Me.; John A. Gott, master. Compelled to go without necessary outfit while fishing in Gulf of St. Lawrence. (From statements of M. Stimpson, owner, Swan's Island, Me.)
- Grover Cleveland* (schooner).—Boston, Mass.; George Lakenan, master. Compelled to return home with only partial fare of mackerel, being refused supplies in Canadian ports. (From statements of B. F. De Butts, owner, Boston, Mass.)
- Andrew Burnham* (schooner).—Boston, Mass.; Nathan F. Blake, master. Not allowed to buy provisions, or to land and ship fish to Boston, thereby losing valuable time for fishing. (From statements of B. F. De Butts, owner, Boston, Mass.)

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Harry G. French (schooner).—Gloucester, Mass.; John Chisholm, master. Refused permission to purchase any provisions or to land cargo for shipment to the United States. (From statements of John Chisholm, owner and master, Gloucester, Mass.)

Col. J. H. French (schooner).—Gloucester, Mass.; William Harris, master. Was refused permission to purchase any supplies, or to forward fish to the home port by steamer, causing much loss of time and money. (From statements of John Chisholm, owner, Gloucester, Mass.)

W. H. Wellington (schooner).—Gloucester, Mass.; D. S. Nickerson, master. Was refused permission to purchase any supplies, or to forward fish to the home port by steamer, causing much loss of time and money. (From statements of John Chisholm, owner, Gloucester, Mass.)

Ralph Hodgdon (schooner).—Gloucester, Mass.; Thomas F. Hodgdon, master. Was refused permission to purchase any supplies, or to forward fish to the home port by steamer, causing much loss of time and money. (From statements of John Chisholm, owner, Gloucester, Mass.)

Hattie Evelyn (schooner).—Gloucester, Mass.; James A. Cromwell, master. Not allowed to buy any provisions in any provincial ports, and thereby compelled to return home during the fishing season, causing broken voyage and great loss. (From statements of James A. Cromwell, owner and master, Gloucester, Mass.)

Emma W. Brown (schooner).—Gloucester, Mass.; John McFarland, master. Was forbidden buying any provisions at provincial ports, and thereby lost three weeks' time, and was compelled to return home with only part of cargo. (From statements of John McFarland, master, Gloucester, Mass.)

Mary H. Thomas (schooner).—Gloucester, Mass.; Henry B. Thomas, master. Prohibited from buying provisions, and, in consequence, had to return home before close of fishing season. (From statements of Henry B. Thomas, owner and master, Gloucester, Mass.)

Hattie B. West (schooner).—Gloucester, Mass.; C. H. Jackman, master. Prevented from buying provisions to enable vessel to continue fishing. Two of crew deserted in a Canadian port, and captain went ashore to report at custom-house and to secure return of men. Was delayed by customs officer not being at his post, and ordered to sea by first officer of cutter Howlett before having an opportunity of reporting at custom-house or of finishing business. Had to return and report on same day or be subject to fine. Prevented from shipping men at same place. At Port Hawkesbury, Nova Scotia, while on homeward passage, not allowed to take on board crew of seized American fishing schooner Moro Castle, who desired to return home. (From statements of C. H. Jackman, master, Gloucester, Mass.)

Ethel Maud (schooner).—Gloucester, Mass.; George H. Martin, master. Provided with a United States permit to touch and trade, entered Tignish, Prince Edward Island, to purchase salt and barrels. Was prohibited from buying anything. Collector was offered permit, but declared it to be worthless, and would not examine it. Vessel obliged to return home for articles mentioned. On second trip was not permitted to get any food. (From statements of George H. Martin, owner and master, East Gloucester, Mass.)

John W. Bray (schooner).—Gloucester, Mass.; George McLean, master. "On account of extreme prohibitory measures of the Canadian Government in refusing shelter, supplies, and other conveniences, was obliged to abandon her voyage and come home without fish. (From statements of John F. Wonsen & Co., owners, Gloucester, Mass.)

Henry W. Longfellow (schooner).—Gloucester, Mass.; W. W. King, master. Obligated to leave Gulf of St. Lawrence with only 62 barrels of mackerel, on account of restrictions imposed by Canadian Government in preventing captain from procuring necessary supplies to continue fishing. (From statements of John F. Wonsen & Co., owners, Gloucester, Mass.)

Rushlight (schooner).—Gloucester, Mass.; James L. Kenney, master. Compelled to leave Gulf of St. Lawrence with only 90 barrels of mackerel, because of restrictions imposed by Canadian Government in prohibiting captain from purchasing supplies needed to continue fishing. (From statements of John F. Wonsen & Co., owners, Gloucester, Mass.)

Belle Franklin (schooner).—Gloucester, Mass.; Henry D. Kendrick, master. Obligated to leave Gulf of St. Lawrence with 156 barrels of mackerel, on account of restrictions imposed by Canadian Government in denying to captain the right to procure necessary supplies to continue fishing. (From statements of John F. Wonsen & Co., owner, Gloucester, Mass.)

Neponset (schooner).—Boston, Mass.; E. S. Frye, master. August 27, 1886, anchored in Port Hawkesbury, C. B., and immediately reported at custom-house. Being short of provisions, master asked collector for permission to buy, but was twice refused. The master expressing his intention of seeing the United States consul at Port Hastings, C. B., 3 miles distant, the customs officer forbade him landing at that port to see the consul. He did so, however, saw the consul, but could get no aid, the consul stating that if provisions were furnished the vessel would be seized. Master being sick and wishing to return home by rail, at the suggestion of the consul he landed secretly and traveled through the woods to the station, 3 miles distant. (From statements of E. S. Frye, owner and master, Boston, Mass.)

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Senate Report No. 1981, Forty-ninth Congress, second session.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 28, 1887.—Ordered to be printed.

Mr. EDMUNDS, Mr. FRYE, and Mr. MORGAN, managers on the part of the Senate on the disagreeing votes of the two houses on the amendment of the House of Representatives to the bill (S. 3173) to authorize the President of the United States to protect and defend the rights of American fishing vessels, American fishermen, American trading and other vessels, in certain cases, and for other purposes, submitted the following

REPORT:

The managers on the part of the Senate of the conference on the disagreeing votes of the two houses on their disagreeing on the amendments proposed by the House to the bill (S. 3173) respecting the fisheries, respectfully report that the bill passed the Senate on the 24th day of January, 1887, and on February 23 was returned from the House of Representatives with an amendment striking out the whole of the Senate bill and proposing one entire House amendment in its place.

On the 24th the bill was laid before the Senate, and the House amendment was disagreed to and a committee of conference asked and the papers ordered to be printed.

On the 25th instant the House agreed to the conference, and on the 26th the managers on the part of the House met the Senate managers in the afternoon of that day, and the differences in the views of the two Houses fully discussed. The House conferrees did not object to the substance of any part of the bill as it passed the Senate, so far as it goes, but the first part of the first section of the House amendment undertakes to restate the enumeration of the cases and injuries mentioned in the Senate bill by entirely dropping the classifications or groups of vessels made in the Senate bill, and to bring all vessels of the United States, of whatever character or class, within one definition.

The ground on which the Senate bill went in this respect was that United States fishing vessels *purely* had their rights regulated and measured by the treaty of 1818, as having the absolute right of fishing inshore in certain ports of the marine territories of the British dominions in North America and being prohibited from fishing in other ports, but still having the right to enter those other waters for the purposes enumerated in the treaty, and not to be abused with a view to fishing in prohibited waters.

The second classification of United States vessels made in the Senate bill covered precisely the same vessels, but having also a commercial character obtained by having not only a license to fish, but also under the laws of the United States a permit to touch and trade in foreign ports, and which, therefore, in their character as trading vessels, would not, as it was thought, be under the prohibitory provisions of the fishery treaty of 1818.

The third classification covered all other vessels of the United States not falling within the two preceding classes.

It was thought by the Senate, in passing the bill in that form, that a more clear understanding could be had of its application and enforcement than if all the vessels had been massed under one description. The Senate bill then proceeded to provide for cases not merely of the denial of treaty rights to purely fishing vessels, or the denial of lawful trading rights to fishing vessels otherwise to touch and trade or lawful rights to purely trading vessels, but to include also unjust vexation and harassment as well as exclusion from rights to trade accorded to the vessels of the most favored nation.

The House amendment applicable to the whole of this part of the subject purports to provide for the cases of vessels of the United States which "are denied in the ports or territorial waters of the British dominions in North America rights to which such vessels are entitled by treaty or by the law of nations or are denied the comity of treatment or the reasonable privileges usually accorded between neighboring and friendly nations."

It is, with great respect to the House of Representatives, thought by the Senate managers of the conference that this provision is not nearly so adequate to the condition of affairs as the provisions of the Senate bill which have been already described. There is no treaty in existence between the United States and Her Majesty's Government on the subject of the treatment of American vessels in British North American waters or ports, other than the provisions already referred to concerning purely fishing vessels and contained in the treaty of 1818, with possibly an exception as it respects one or two particular ports, and with the exception of such provisions as are contained in the treaty of 1871, which provisions in this last-named treaty are in these respects not applicable to the now existing difficulties. What positive rights "the law of nations" mentioned in the House amendment United States vessels entering British North American waters are entitled to the Senate managers think it would be somewhat difficult to define or explain. For, it is believed, by what is called the "law of nations" no vessel of the United States would have a right to enter British waters at all other than under an implied and tacit consent of the sovereign of that country, which could, at any moment, be positively withdrawn consistently with the understood sovereign rights of all nations. The Senate managers, therefore, think that this definition, measured by the law of nations, is really not much more than a definition measured by the will of the British Government so far as exclusion or the regulation of conduct in such waters might happen to go.

The next phrase in the House amendment proposed to take the place of the enumerations and descriptions mentioned in the Senate bill purports to provide for cases in which American vessels "are denied the comity of treatment or the reasonable privileges usually accorded between neighboring and friendly nations."

The Senate managers are of opinion that this phrase, so far as it applies to purely fishing vessels, may go beyond the treaty rights of such vessels as measured by the treaty of 1818. Whether the phrase was intended to include treatment and reasonable privileges secured between neighboring and friendly nations by treaty such as exists in respect of British vessels of Her Majesty's dominions in Europe in waters of the United States and American vessels in European British waters does not appear to be at all clear. If it be meant to cover such cases, then the provision would be entirely inapplicable to the case in

hand. If it be meant to make the test that of the conduct of neighboring and friendly nations in the absence of a treaty concerning the respective rights of their vessels in the waters of the other, then the cases occurring in the last year of the treatment of American vessels in British waters of North America might be considered the standard to which this language would apply, for Great Britain is, in respect of her dominions of North America, a neighboring, and, in a public sense a friendly, nation. But if it were taken in general as applied to the general good neighborhood of nations, the standard would probably vary more or less, whatever country should be resorted to for finding the measurement of administration in regard to foreign vessels.

But, as has been before stated, the House managers, so far as we can understand, do not appear to find fault with the substance or the essential phraseology of the Senate bill.

The irreconcilable point of difference between the managers on the part of the two Houses is the insistence, on the part of the House managers, upon adding to the scope of the Senate bill, and so going beyond it, the further provision that, in case of injurious treatment to our vessels in British North American waters, it shall be within the competence of the President of the United States to absolutely stop intercourse not only by water, but by land, between the people of the United States and the people of the British territories adjacent, thus absolutely cutting off the continuous movement of railway trains from the British Provinces to any part of the United States, and, in effect, reciprocally from the United States to British dominions, either on the northern border of Minnesota, at the river Saint Mary, at Port Huron, at Detroit, at Grosse Isle, at Buffalo, at Niagara Falls, at Rouse's Point, at Highgate, Franklin, Richford, Troy, Derby, and Norton, on the northern border of Vermont, and on the northern and eastern borders of Maine; at all of which places it is understood there now exist interior railroad lines crossing the boundaries of the two countries—in some cases operated and practically owned by British subjects, and in other cases operated and practically owned by American citizens.

The Senate managers have felt it to be a duty to decline to go to this extent, and have thought it to be clear that the provisions for the protection of American interests set forth in the Senate bill, and in that part of the House amendment applicable to any British violation of the treaty of 1877, are entirely adequate to the peaceful end in view, and that there is no present justification for reposing in the Executive this further enormous power proposed by the House of Representatives in its amendment, and insisted upon by the House managers.

It seems clear to the Senate managers, and has not been controverted by the House managers, that the things the President is authorized to do by the Senate bill in the cases named are none of them in derogation, either directly or indirectly, of any treaty right, or of the peaceful business intercourse of nations, but that this Government in these respects is absolutely free to act in the manner proposed without being subject to the imputation that it is either in any way infringing the most liberal interpretation of any treaty or doing any act that nations at peace have not hitherto found themselves from time to time justified in doing, not in a spirit of belligerency, but merely as a matter of counter-vailing business regulations.

The Senate managers offered to the House managers to add to the Senate bill the provision contained in the House amendment providing that, if there should be any violation of Article 29 of the treaty of 1871 on the part of Great Britain, the President should be authorized recip-

roccally to withdraw from British subjects the benefits of the same article with certain changes of phraseology, which, it is understood, were satisfactory to the House managers.

The Senate managers also expressed their willingness to accede to the third section of the House amendment, although the propriety of its form and substance is open to very considerable question.

The result of the conference, therefore, has been that the House of Representatives, through its managers, not objecting to the Senate bill, but desiring to add a new and enlarged provision to the Senate bill and to adopt measures additional to those mentioned in the Senate bill, and not necessarily dependent thereon, and the Senate managers unwilling to go to that extent, and so disagreeing to the House proposition, decline to make even the provision that has passed the Senate in respect of the subject of the protection of our fishing and other vessels, and to which the House makes no objection so far as it goes, unless the Senate will consent to make further legislative provisions which it believes to be unwise. It would seem needless to say that such a pretension, made by one of two co-ordinate legislative bodies, is quite untenable.

The essential principle upon which the two houses have almost universally hitherto acted, and without which no legislation whatever could be accomplished when there was not perfect accord on all points, has been that when either house proposes legislation that is satisfactory to the other so far as it goes, and the other house desires to go further and make affirmative and additional law, if it cannot convince its co-ordinate body that it is desirable to go further, the house proposing the affirmative additional legislation must recede. This principle is vitally important to the independence of each house, and so indispensable to the practical legislation of the country that the Senate managers have felt it to be a paramount duty to refuse to accede to this further House proposition, both as unnecessary and unwise, and as in derogation of the equal rights of the two bodies.

The Senate managers have felt it to be a duty in this important matter to report this state of things at once to the Senate for its information.

GEO. F. EDMUNDS.

WM. P. FRYE.

JNO. T. MORGAN.

IN THE SENATE OF THE UNITED STATES.

MAY 10, 1888.—Injunction of secrecy removed and ordered to be printed.

MAY 7, 1888.

Mr. EDMUNDS, from the Committee on Foreign Relations, submitted the following

REPORT (EXECUTIVE No. 3)

ON THE TREATY (EX. M.) BETWEEN THE UNITED STATES AND GREAT BRITAIN, CONCERNING THE INTERPRETATION OF THE CONVENTION OF OCTOBER 20, 1818, SIGNED AT WASHINGTON FEBRUARY 15, 1888; WHICH, TOGETHER WITH THE VIEWS OF THE MINORITY ON THE SAME SUBJECT, SUBMITTED BY MR. MORGAN, WAS ORDERED TO BE PRINTED IN CONFIDENCE FOR THE USE OF THE SENATE.

The Committee on Foreign Relations, to which was referred the message of the President of the United States of the 20th February last, transmitting a proposed treaty between the United States and Great Britain concerning the interpretation of the convention of the 20th October, 1818, signed at Washington February 15, 1888, respectfully reports:

That it has had the said proposed treaty under careful and deliberate consideration and that it returns herewith a resolution in the ordinary form for its ratification, with the expression of its opinion that said resolution ought not to be adopted.

As preliminary to a consideration of the text of the treaty itself in various aspects, the committee thinks it proper to give a brief résumé of the history of the fisheries question and other matters relating to the intercourse between the United States and the British dominions of North America having more or less relation thereto.

Before the Revolution the inhabitants of all the British colonies in North America possessed, as a common right, the right of fishing on the coasts of British North America, and these rights were, in a broad sense, prescriptive and accustomed rights of property. At the end of the Revolution and by the treaty of peace of 1783, which adjusted the boundaries between the dominions of the two powers, it was (Article III)—

Agreed that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank and on all the other banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish, and also

that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use (but not dry or cure the same on that island), and also on the coasts, bays, and creeks of other of His Britannic Majesty's dominions in America.

This was a grant or recognition of a property right agreed upon on consideration, viz, the adjustment of the boundaries and the other engagements into which the United States by that treaty entered. As to the open-sea fishing, it was merely a recognition of a right common to all nations, and as to the fishing within the municipal dominion of His Majesty on his coasts, bays, and creeks, it was an agreement that the rights theretofore existing in all British subjects should of right belong to those British subjects who, by force of the revolution, had become the citizens of an independent nation; and thus it was, in the partition of the territory, a reservation in favor of the people of the United States of a right which they, as British subjects, had theretofore lawfully enjoyed.

From 1783 until the war of 1812 between the two countries citizens of the United States continued to enjoy the ancient rights belonging to them as subjects of Great Britain before the Revolution and reserved to them as citizens of the United States after it, with the full freedom secured by the article last referred to. During this period of time other subjects of difference and negotiation arose between the two countries, which were disposed of by the treaties of 1794, with its explanatory articles, and of 1802; but the fishery provision of 1783 continued to exist unquestioned and apparently as having been, as it plainly purported to be, a treaty disposing of and adjusting property rights which had become by force of its own operation an executed contract.

The treaty of peace concluded on December 24, 1814, at the close of the war of 1812, provided:

First, for a restoration to each party of all countries, territories, etc. taken by either party during the war, without delay, saving some questions of islands in the bay of Passamaquoddy.

Secondly, it provided for disposition of prizes and prisoners of war.

Thirdly, it provided for questions of boundary and dominion regarding certain islands and for the settlement of the northeastern boundary and also for the northwestern boundary, etc. It made no reference whatever to any question touching the fisheries mentioned in the treaty of 1783.

The commercial treaty concluded on the 3d of July, 1815, between the two countries provided for reciprocal liberty of commerce between

the territories of Great Britain in *Europe* and the territories of the United States, but left without any new treaty stipulation or obligation commercial intercourse between British dominions in North America and the United States remaining under the exclusive control of each.

But after the conclusion of the treaties following the war of 1812, there being then no treaty obligations or reciprocal laws in force between or in either of the countries respecting commercial intercourse, the British Government set up the pretension that the fishing rights recognized and secured to citizens of the United States by the treaty of 1783 had become abrogated in consequence of the war of 1812, which, on the principle of the war annulling all unexecuted engagements between the two belligerents, it was contended, annulled the fishing rights described in the treaty of 1783, and that the citizens of the United States had, therefore, no longer the right to fish in any of the British North American waters. This pretension led to the conclusion of the treaty of the 20th October, 1818, the fisheries article of which provided that (Article I)—

Whereas differences have arisen respecting the liberty, claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands; on the western and northern coast of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company: And that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks, of the southern part of the coast of Newfoundland, above described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

This arrangement divided, and limited in territorial extent, the fishing rights of the people of the United States, that had existed while they were British subjects and had been recognized and existed under the treaty of peace of 1783 until the war of 1812, and it provided for a continuance of the ancient rights of fishing on certain named parts of the coasts of British North America, and its islands, and in their bays, harbors, and creeks, etc. It also provided for a renunciation by the United States of pre-existing rights to take fish, etc., "within 3 marine miles of any of the coasts, bays, creeks, or harbors" of His Majesty's dominions in British North America, not included within the previously-mentioned limits, but with a proviso, as a reservation upon the renunciation of the right to fish, that the—

American fishermen shall be admitted to enter such bays or harbors for the purposes of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

It will be observed that the ancient right continued in all its force in every bay, harbor, and creek of a described territory, and that the renunciation of the right to fish on other coasts, bays, harbors, and creeks is in the same language, and is perfectly correlative to the first, and that the line of British municipal dominion was recognized and stated to be a line 3 marine miles from these British coasts, bays, creeks, and harbors, and that this renunciation was, both in substance and form, a renunciation only of a right to *fish* and to exercise the incidents of the fishing, as drying, etc., and that the proviso to that renunciation admitted the American fishermen to enter such waters, bays, and harbors for the specific purposes necessary to them in their character as fishermen only, and not having the slightest reference, either expressly or by implication, to any *fishing* or *other* vessel of the United States and sailing under their flag, entering any port of His Majesty's dominions anywhere for any commercial or trading purpose. And these entries into exclusively British fishing waters fishing vessels (the only ones entitled to be there at all) were to be under such restrictions, and such only, as should be necessary to prevent their exercising the fishing rights that had been renounced and abusing the privileges of such entry so reserved; that is, by doing the renounced thing, viz, the taking and curing of fish, or violating the British laws excluding all American trading vessels.

It is to be kept clearly in view that at the time of the conclusion of this treaty of 1818, and for twelve years afterward, no American vessel had any right to enter any port of British North America, with the few exceptions named in the mutual arrangements of 1820 and 1823, hereinafter stated. The treaty of 1815 and the British laws and policy reserved the whole trade and intercourse with the ports of these colonies to her own vessels, and, reciprocally, there was no law or treaty of the United States which authorized the entry into ports (with the exceptions stated) of the United States of British vessels from British North American ports.

Thus it was that the treaty of 1818 omitted to make any mention of the ports in the British provinces in connection with the arrival or departure of American vessels, either fishing or other, and so it was a clear and necessary construction of the treaty of 1818 that the arrangements, conditions, and renunciations therein provided had no relation, one way or the other, to the exercise of what may be called commercial rights by the American fishing or other vessels in the waters or ports of British North America, for the *status* of things was such, that it could not be done in the case of *any* American vessel without regard to her character as a vessel engaged in fishing upon the high seas or in the British territorial waters, wherein, as was provided, she might continue to fish, or to her commercial character.

The right (except in the cases before stated) of the British to exclude such vessels and all others of the United States from her ports in British North America, as the matter stood until 1830, is fully conceded, and it is also conceded that during that time the only right of any vessel of the United States to enter the waters of British North America depended upon the treaty of 1818 alone, and in order to obtain the benefit of that treaty for such purposes, the American vessel *must* have been a fishing vessel, and must have resorted to those particular waters for some one of the purposes mentioned in the treaty, and no others.

The foregoing statement is, of course, subject to the limitation implied in whatever rights might have existed by the general law of nations in respect of vessels under circumstances requiring the exercise of humanity, etc. It must be also remarked that at the time of the conclusion of the treaty of 1818 the ports of British North America were very few and far between, and that there could be very little motive for American vessels, either fishing or other, to resort to such ports

for the purposes of trade until the British colonial policy should have been abandoned or very largely modified.

The matter, then, under the treaty of 1818 was a very simple one and can be restated thus:

(1) No American vessel had any right to resort to British North American ports for any commercial or other purpose, and no British North American vessel had any right to resort to any port of the United States for such purposes.

(2) But American fishing vessels had a right to resort to certain of the coasts, bays, harbors, and creeks of that part of British North America described in the treaty of 1818 for all purposes of fishing which they had anciently enjoyed.

(3) But American fishing vessels, and fishing vessels *only*, had also a right to resort to all other British North American waters for the special purposes named in the treaty.

(4). The general result of this was, as to American fishing vessels, that they had, on all the British North American coasts and in all her bays and harbors, the right to shelter, to repair damages, and to obtain wood and water, but on certain named parts of the same coasts, etc., they had not the right to take or cure fish; and

(5) As a consequence of the situation embraced in the British laws and in that treaty, the matter of resorting to British North American ports either by American fishing or other vessels was entirely outside of and unaffected either way by that treaty.

From 1818 forward, until after the reciprocal arrangements of 1830 concerning commerce, it is not known that any serious difficulties occurred in respect of the rights of American fishermen pursuing their calling in those regions of the sea.

Two or three instances only of seizure appear to have occurred until after 1830 and none of those touched or raised the bay or headlands question. In 1835 the British Government brought to the notice of our own the complaints of the Canadian authorities concerning alleged infractions of the treaty of 1818 by our fishermen. These complaints did not involve the bay or headlands question or any commercial question, and the complaints were immediately attended to by our Government to the satisfaction of that of Great Britain (Ex. Doc. 100, Thirty-sixth Congress, first session, pp. 56 and 58).

In 1838-'39 there were a few more seizures, but none of them appear to have raised the bay or headlands question. One was seized at the Gut of Canso but released; and none of these seizures appear to have involved any commercial or trade question excepting the *Shetland*, which, being driven inshore by a storm, anchored, and the master was enticed into selling a boy who came on board, a pair of trousers and a little tea and tobacco, for which the vessel was immediately seized, it being evident that the boy had been sent by the authorities to entrap the master (Ex. Doc. 100, Thirty-sixth Congress, first session, pp. 65 and 66); and excepting the *Magnolia*, which purchased a barrel of herring for bait; and excepting the *Hart*, which, running into Tasket Harbor in heavy weather, and while the master was on shore procuring wood and water, a British subject asked some of the crew to help him clear his nets. Some of the crew accordingly went on board the British vessel and assisted in clearing the nets, for which the British owner gave two barrels of fresh herring; and excepting the *Eliza*, which, being at anchor in a gale, carried away one of her larboard chains, and ran into Bevet Harbor, and got it repaired by a British subject, and was accordingly seized.

These instances are specially referred to to show that the bay and headlands question almost never practically arose, and that the offenses, if offenses they were, of the seized vessels, were of the most trivial and unimportant character, scarcely worthy the notice of a government.

In 1818 (and before the treaty of that year) Congress passed an act closing our ports against British vessels coming from colonial ports which were closed against vessels owned by citizens of the United States (Stats., vol. 3, p. 432); and in 1820 Congress passed a supplementary act upon the same subject and upon the same principle of mutuality, applied particularly to British North American ports and certain West Indian ones (Stats., vol. 3, p. 602); and in 1823 Congress passed an act suspending the former acts so far as they applied to sundry ports named—the Canadian ones being St. John and St. Andrews, New Brunswick; Halifax, Nova Scotia; Quebec, Canada; and St. John's, Newfoundland.

But this act was passed with the condition that the enumerated British colonial ports should be open for the admission of the vessels of the United States, and provided that, if trade and intercourse should be interrupted by the British authority in those ports, similar action should be taken by the President in respect of our own.

The act of Congress of May 29, 1830, provided for opening of all American ports to certain British colonial vessels on a mutual opening of

British colonial ports to American vessels. Section 2 of that act declared that—

Whenever the ports of the United States shall have been opened, under the authority given in the first section of this act, British vessels and their cargoes shall be admitted to an entry in the ports of the United States from the islands, provinces, or colonies of Great Britain, on or near the North American continent, and north or east of the United States, (Stats., v. 4, p. 420).

Pursuant to this act President Jackson, on the 5th of October, 1830, in accordance with a mutual understanding upon the subject with the Government of Great Britain, issued his proclamation, putting this act of 1830 into effect (Stats. V. 4, p. 817). And on the 18th of November, 1830, a British order in council was issued, declaring among other things—

That the ships of, and belonging to, the United States of America may import from the United States aforesaid into the British possessions abroad goods with produce of those States, and may export goods from the British possessions abroad to be carried to any foreign country whatever (British Foreign and State Papers, V. 17, p. 894).

It is clear that under this act of Congress all British vessels, without regard to their occupation, whether fishing or other, coming from British North America, were entitled to admission into our ports for all purposes of trade and commerce. Canadian fishing vessels had the same rights as any other, for they fell within the general description stated in the statute. So, too, reciprocally, our fishing vessels fell within the general description of "ships of and belonging to the United States." Before this time *all* American vessels were excluded from British North American ports with the then recent exception before stated; then, under this arrangement *all* ships of the United States were to be admitted into British North American ports. The former almost universal exclusion was abolished without reserve. If any literal reading of this British order in council can be suggested as of a narrower construction, it would destroy the mutuality of the action of the two governments and be unworthy of a government.

Surely no nation not in a state of vassalage would consent that its citizens or subjects should for a moment be treated in or by another nation in a less favorable way than it treated the citizens and subjects of the same class and occupation of such other nation.

From the conclusion of the treaty of 1818 down to nearly 1840, as we have seen, the incidents of collision or difficulty in respect of the rights of the purely American fishing vessels under that treaty were com-

paratively few; and, so far as the committee is advised, such incidents of difficulty as occurred did not arise under any bay or headland pretension of Great Britain, but came out of a few American vessels, from time to time having come within 3 miles of the British North American shores, being seized upon one accusation or another.

In the year 1836 the province of Nova Scotia passed laws of a more stringent and unjust character than any that had existed before, and in the year 1838 that province complained, in an address to the Queen, of American aggressions and asking for a naval force to prevent them. It appears that a British force was accordingly placed on the British North American coast and the seizures of American vessels became much more numerous. (See reports and papers on the subject, Senate Ex. Doc. 100, Thirty-second Congress, first session.)

It appears from these papers that most of the cases of British seizure were for alleged violations of the customs laws. That others of them were for violations of the privileges secured by the treaty of 1818, by coming within 3 miles of the shore; and so far as it is known, it was not until the 10th May, 1843, that any American vessel was seized for fishing more than 3 miles from the shore in a bay indenting the British North American coast.

But in the diplomatic correspondence of that period the pretension was asserted by the British Government that bays more than 6 miles wide, and of indefinite width, if bays indenting British shores, were within the exclusion of the treaty of 1818, and under this pretension the American fishing vessel *The Washington* was seized for fishing in the Bay of Fundy, but more than 3 miles from the shore. This pretension of the British Government was denied by our own, but no agreement upon the subject was come to.

This state of things, with more or less of collision and harassment to our fishing vessels, continued, but without very serious difficulty, until, in 1852, an attempt was made by the British Government to induce the United States to conclude a reciprocity treaty, which failing, the British Government sent a strong force of war steamers and sailing vessels to these waters for the alleged purpose of enforcing the provisions of the treaty of 1818, but, as was believed by the people and Government of the United States, intended not only for that, but as an overawing enterprise, which should frighten the American fishermen from resorting to British waters for any of the purposes mentioned in the treaty, and to so much disturb American fishing interests as to

seriously cripple or destroy them, and thus lead the United States to enter into reciprocity with British North American provinces.

Documentary papers and discussions in the Senate at the time will show how fully this matter was understood, and how it was regarded by the people and Government of the United States. Mr. Webster, then Secretary of State, thereupon issued a circular notice to American fishermen, in which he states what the rigid and strict construction of the treaty of 1818 would be, as claimed by the British, as it respected the entrance of fishing vessels into the bays or harbors indenting the British provinces. He stated the British pretension in respect of drawing lines from headland to headland and their asserted pretension of a right to capture all American fishermen who should follow their pursuits in bays inside of such lines. But he distinctly also stated, in the same circular, that he did not agree to the construction thus put by the British upon the treaty, or that it was conformable to the intention of the contracting parties; but he informed the public of the British pretension, "to the end that those concerned in American fisheries may perceive how the case at present stands and be on their guard." (H. R. Mis. Doc. No. 32, Forty-second Congress, second session.)

This circular of Mr. Webster was of July, 1852, and on the 23d August of the same year, twenty-two years after the laws of 1830, the provincial secretary of Nova Scotia issued a notice that "no American fishing vessels are entitled to commercial privileges in provincial ports," etc. (Memorandum respecting North American fisheries, prepared for the information of the American commissioners who negotiated the treaty of 1871).

Following these operations, the claims convention of the 8th of February, 1853, between the United States and Great Britain, was concluded, and under that convention the case of the *Washington*, seized for fishing in the Bay of Fundy, as before mentioned, was heard, and the umpire decided that the true meaning of the treaty of 1818 made it lawful for the *Washington* to fish more than three miles from the shore in the Bay of Fundy, and in respect of the headland pretension he says:

That the Bay of Fundy is not a British bay, nor a bay within the meaning of the word as used in the treaties of 1783 and 1818.

He refers to the convention of 1839 between France and Great Britain in respect of reciprocal fishing by the subjects of each country along the shores of the other, providing that their conventional arrangements shall exclude the fishermen of each from bays which do not exceed 10 miles

in width within the shores of the other as a proper limit of the doctrine of headlands.

But upon this point (immaterial to the question before him) it is to be observed that the 10-mile headland arrangement between France and Great Britain was a mutual one, applying to the shores and bays of both countries along which the fishermen of each were accustomed to ply their calling, and if, therefore, that convention had agreed upon a distance of 10 miles from shore, and 20 miles for the width of the waters between headlands, it would have furnished no argument in respect of the principle of public law applicable to such questions or in respect of the ancient rights of the citizens of the United States in regard to the fisheries in northeastern waters, for the fishermen of each country were put upon a precisely equal footing in respect of the waters and ports of the other, which, on the British theory, strangely enough, has not existed between British and American fishermen since the act of Congress of 1830, and will not exist if the treaty under consideration should go into effect.

In 1854, however, the objects of British and Canadian desire were at last accomplished by the conclusion of the treaty of the 5th of June of that year, by which an extensive reciprocity, so called, of trade was agreed upon, and the right granted to the Americans to fish within the limits prohibited by the treaty of 1818 under a variety of restrictions and limitations, and a similar right granted to British fishermen in the waters of the United States north of latitude 36°.

In the same treaty were various other provisions respecting navigation of the St. Lawrence, American and Canadian canals, etc., and the treaty was terminable on notice after the expiration of ten years. The experience of the United States and their citizens under that treaty led Congress to terminate it in the winter of 1864-'65 by a vote of nearly 2 to 1 in the House of Representatives and by a vote of nearly 5 to 1 in the Senate.

The Canadian Government then for a few years resorted to a system of licensing American fishermen to fish in the waters from which they were excluded for fishing purposes by the treaty of 1818. For the first year the number of licenses is reported to have been 354, at 50 cents per ton. The next year, 1867, the license fee was made \$1 per ton; the number of licenses is reported to have been 281. The next year, 1868-'69, the license fee was again doubled—\$2 per ton—and in 1868 only 56 licenses were taken out, and in 1869 only 25.

In 1868 the Dominion Government proceeded to enact the most harsh and stringent laws on the subject of American fishermen calculated and, it is thought, undoubtedly designed to so harass American fishermen in the exercise of the rights reserved to them by the treaty of 1818 as to cripple and destroy their operations. Analogous legislation by Newfoundland in 1836 had led the United States to remonstrate against it as a "violation of the well-established principles of the common law of England and of the principles of all just powers and of all civilized nations, and seemed to be expressly designed to enable Her Majesty's authorities, with perfect impunity, to seize and confiscate American vessels and embezzle almost indiscriminately the property of our citizens employed in the fisheries on the coasts of the British Possessions" (Ex. Doc. 100, Thirty-second Congress, first session).

In 1870 the British Government informed our own that the Canadian Government would issue no more licenses to American fishermen; and, notwithstanding the decision of the umpire in the case of the *Washington* in 1853, announced the British claim to the exclusion of the American fishing vessels from coming within British headlands, without regard to the width of the bay between. (See Report on Foreign Relations, 1870).

Then came the treaty of 1871, devoted primarily to the Alabama claims, but which provided that for the period of ten years fishermen of the United States should have, in addition to their rights under the treaty of 1818, the right of British North American in-shore fishing under certain limitations, etc.; and the United States agreed to the free admission of British North American fishery products into our country, and it was also provided that the British fishermen might fish in certain American waters, and that the balance of alleged advantage to the United States in these respects should be settled by a commission.

This commission, as is well known, by the vote of the British commissioner and the Belgian umpire, and against the vote of the American commissioner, fixed the sum to be paid by the United States at \$5,500,000. The gross injustice of this, as believed by the United States, led the Senate, on the 27th February, 1879, six years before the fisheries provision could expire by the terms of the treaty, to unanimously pass a resolution declaring that steps ought to be taken to provide for the earliest possible termination of these fishery arrangements by negotiations with the British Government to that end. It is under-

stood that the President of the United States, in pursuance of this recommendation, endeavored to obtain the agreement of Great Britain to an immediate termination of these clauses in the treaty, but without success.

In February, 1883, however, as the period was approaching when these provisions could be terminated on notice, both houses of Congress unanimously (or certainly without any division) passed resolutions terminating Articles XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXX, and XXXII of said treaty, which articles covered the whole fishery subject as well as certain matters of navigation, etc. This termination took effect on July 1, 1885.

By the twenty-ninth article of the same treaty, which is still in force, the United States engaged that all goods, wares, and merchandise arriving at certain ports named and destined for the British possessions in North America, should have entry and transit without the payment of duty, and it was reciprocally agreed on the part of Great Britain that all goods, wares, and merchandise arriving at any of the ports of British North America and destined for the United States, should also have the right of free entry and transit to the United States, etc.

That the foregoing mentioned article of the treaty of 1871 covered and included the transmission of fish from American fishing vessels as well as other goods is evident, not only from the plain and comprehensive language of the article, but from the statements of the formal British case laid before the Halifax Commission in 1877, wherein the right of the transshipment of fish from Canadian ports to the United States free of duty, covered by that article, was made the ground of claim for compensation.

But it will be seen on inspection of the treaty of 1871 that the fisheries articles of that treaty contained no provision either in respect of any commercial rights in Canadian ports or in respect of transshipments, and that the reciprocal transshipment article of the treaty was entirely separate and distinct from any question of fisheries or fish as such; but the proceedings before that commission distinctly demonstrated that under article 29 the right to transship fish was understood by the British to be included and without any conditions depending upon the force of any other of the articles of the treaty, and it is also to be observed that the fisheries articles, in respect of their duration and termination, are treated of separately and by themselves in article 33, which provided that they, as a group by themselves, might be ter-

minated after ten years, on two years' notice, while the reciprocal transshipment article 29 was left to stand independently by itself.

It inevitably follows:

(1) That the right of American fishing vessels to transship their fish from Canadian ports to those of the United States was not derived from the fisheries articles and did not depend upon them.

(2) That such right clearly existed by force of article 29 and did not depend upon any other article, and

(3) That article 29, not having been terminated, the right of American fishing vessels to enter Canadian ports for the purpose of transshipping their cargoes is as clear and unquestionable as that of any other American vessels.

Under the treaty of 1871, with all the privileges granted to Americans in respect of fishing in British waters, the practical result was the diminution of American fishing interests and a corresponding large increase of the Canadian fishing interests, owing to the superior facilities of the Canadians in fishing near their own homes and their right guaranteed by that treaty to dispose of their fish in American ports free from all duties and impositions. It was this, doubtless, that led the British Government to refuse to terminate the fisheries article of 1871 when it had already obtained \$5,500,000 as the established recompense for the superior (alleged) advantages obtained by American fishermen under that treaty.

After the final termination of the fisheries articles of the treaty of 1871, it being apparent that the United States could not be persuaded or beguiled into a renewal of the so-called reciprocity with Canada, the former methods of unfriendly coercion and harassment were again resorted to and with great exaggeration. New Canadian laws, sanctioned by the home government, were enacted, calculated and evidently designed to effectually frustrate and destroy all the substantial rights that American fishermen were entitled to enjoy under the treaty of 1818, and to destroy the mutuality of the act of 1830 and the benefits of article 29 of the treaty of 1871.

Our Government remonstrated, at first mildly, and later on with something of the vigor that should belong to those intrusted with the defense of clear American rights. But these remonstrances, unaccompanied or followed by any further steps, were unavailing.

The President, in his annual message of December, 1885, in view of these circumstances, recommended to Congress the making provision

for a commission to adjust and settle the difficulties and disputes thus arisen, but Congress did not see fit to do it, and the Senate, on the 13th of April, 1886, adopted a resolution by a majority of 25 declaring that, in its judgment, no such commission ought to be established; and by a resolution of the 24th of July, 1886, proceeded to order an investigation by its committee on foreign relations into the fishery question and into the unjust treatment of our fishermen and the circumstances connected therewith, with a view, as it may be presumed, to taking such measures on the report of its committee as the interests and honor of the United States should require.

That committee made an exhaustive investigation, and without any dissent from any of its members reported to the Senate, on the 19th of January, 1887, upon the subject, stating the history of these difficulties and the clear rights that it was thought belonged to the United States and to their citizens, and recommended the enactment of a law for the protection of American rights.

Such a law was enacted, the bill passing the Senate by a vote of 46 in the affirmative to 1 in the negative, and passing the House of Representatives with an enlarging amendment by a vote of 256 in the affirmative to 1 in the negative.

On the passage of this law the only difference between the two houses was that concerning the extent to which these defensive measures should go. This act of Congress was approved by the President on the 3d of March, 1887, and is in the following words:

AN ACT to authorize the President of the United States to protect and defend the rights of American fishing vessels, American fishermen, American trading and other vessels, in certain cases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall be satisfied that American fishing vessels or American fishermen, visiting or being in the waters or at any ports or places of the British dominions of North America, are or then lately have been denied or abridged in the enjoyment of any rights secured to them by treaty or law, or are then or lately have [been] unjustly vexed or harassed in the enjoyment of such rights, or subjected to unreasonable restrictions, regulations, or requirements in respect of such rights; or otherwise unjustly vexed or harassed in said waters, ports or places; or whenever the President of the United States shall be satisfied that any such fishing vessels or fishermen, having a permit under the laws of the United States to touch and trade at any port or ports, place or places, in the British dominions of North America, are or then lately have been denied the privilege of entering such port or ports, place or places, in the same manner and under the same regulations as may exist therein applicable to trading vessels of the most favored

nation, or shall be unjustly vexed or harassed in respect thereof, or otherwise be unjustly vexed or harassed therein, or shall be prevented from purchasing such supplies as may there be lawfully sold to trading vessels of the most favored nation; or whenever the President of the United States shall be satisfied that any other vessels of the United States, their masters or crews, so arriving at or being in such British waters or ports or places of the British dominions of North America, are or then lately have been denied any of the privileges therein accorded to the vessels, their masters or crews, of the most favored nation, or unjustly vexed or harassed in respect of the same, or unjustly vexed or harassed therein by the authorities thereof, then, and in either or all of such cases, it shall be lawful, and it shall be the duty of the President of the United States, in his discretion, by proclamation to that effect, to deny vessels, their masters and crews, of the British dominions of North America, any entrance into the waters, ports, or places of, or within the United States, (with such exceptions in regard to vessels in distress, stress of weather, or needing supplies as to the President shall seem proper), whether such vessels shall have come directly from said dominions on such destined voyage or by way of some port or place in such destined voyage elsewhere; and also, to deny entry into any port or place of the United States of fresh fish or salt fish or any other product of said dominions, or other goods coming from said dominions to the United States. The President may, in his discretion, apply such proclamation to any part or to all of the foregoing-named subjects, and may revoke, qualify, limit, and renew such proclamation from time to time as he may deem necessary to the full and just execution of the purposes of this act. Every violation of any such proclamation, or any part thereof, is hereby declared illegal, and all vessels and goods so coming or being within the waters, ports or places of the United States contrary to such proclamation shall be forfeited to the United States; and such forfeiture shall be enforced and proceeded upon in the same manner and with the same effect as in the case of vessels or goods whose importation or coming to or being in the waters or ports of the United States contrary to law may now be enforced and proceeded upon. Every person who shall violate any of the provisions of this act, or such proclamation of the President made in pursuance hereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both said punishments, in the discretion of the court.

Approved, March 3, 1857.

So far as is known to the committee, no step whatever was taken by the President to put this law into execution, but negotiations were initiated and continued, to the apparent end of accomplishing, what Congress had thought it unfit to undertake in such way, an adjustment of these difficulties by the diplomatic course of securing a part of American rights at the expense of yielding other and the most fundamental and important of them.

These negotiations culminated in the appointment by the President, during the recess of the Senate, on the 22d of November, 1857, only ten days before the meeting of Congress, of three "plenipotentiaries," to

consider, with like plenipotentiaries appointed by Her Majesty, the whole subject, with a view of coming to a solution thereof.

These plenipotentiaries, thus created, began their real work at Washington while both houses of Congress were sitting, and without any communication by the President in his annual message on the meeting of Congress, or otherwise, of the fact that such important and extraordinary operations were in progress, or that very grave interests of the United States had been placed in the custody of gentlemen whose names had not even been communicated to it.

These "plenipotentiaries" came to a conclusion of their labors on the 15th of February, 1888, and the offices of "plenipotentiaries" terminated, and the result was reached without the advice and consent of the Senate having been asked or taken concerning the selection of these public ministers, and without any communication to either house of Congress concerning this most important subject.

It is not difficult to see that, in evil times, when the President of the United States may be under influence of foreign and adverse interests, such a course of procedure might result in great disaster to the interests and even the safety of our Government and people.

It is no answer to this suggestion to say that an arrangement thus concluded can not be valid or effectual without the advice and consent of the Senate, for the rights and interests of the people of the United States might be so neglected, misunderstood, abandoned, or sold by President's "plenipotentiaries" as to greatly embarrass, if not defeat, their ultimate re-assertion in better times and under better administrations, though it is hoped that such will not be the case in respect of these negotiations.

The document submitted to the Senate by the President as the outcome of these negotiations may, it is thought, well illustrate the dangers of such methods.

But holding in reserve, for the time being, these grave questions touching usurpations of unconstitutional powers, or the abuse of those that may be thought to exist on the part of the Executive, the committee thinks it sufficient for the present occasion to deal with the document itself.

The subject with which, according to the message of the President transmitting it, this document professes to deal, is "the settlement of the questions growing out of the rights claimed by American fishermen in British North American waters." And the document opens with the

statement that it has to deal with "differences * * * concerning the interpretation of Article I of the convention of October 20, 1818." The article referred to appears in an earlier part of this report.

The language of this article is, as has often been stated in long discussions upon the subject, perfectly clear. And as it respects the territorial limits wherein American fishermen should no longer have their ancient right of fishing, there has not been and can not be any question capable of discussion, other than that which may arise from the use of the words "bays," etc., of Her Majesty's dominions.

The article itself, in clear and unmistakable language, recognized and adopted 3 miles from the shore as the extreme limit of municipal dominion and exclusion, but it also used the words "bays," etc.—British bays—as included within the prohibited territory.

For many years after the conclusion of this treaty of 1818 there does not appear to have been any difficulty in respect of the exercise of the rights of American fishermen in bays along the British North American coast that were more than 6 miles wide at their entrance, thus following the description embraced in the 3-mile designation of municipal boundary.

But when the Canadians found that they could not have the same advantages enjoyed by American citizens, fishermen, in introducing their fish and other products into the United States on the same terms as our own citizens, a system of restrictive claim was adopted, and the pretension was set up that *any* bay, no matter how wide, indenting British North America, was a British bay, and that the American fishermen were by the treaty of 1818 forbidden to fish therein, and in 1843 the first seizure under that claim occurred. The American fishing vessel *Washington* was the vessel. What was decided and settled in her case has already been stated.

From that day to this no instance has been brought to the attention of the committee (among all the various and very numerous seizures of American fishing vessels by the British authorities under the claim of violations of the treaty of 1818) of any seizure of any American fishing vessel for the act of fishing in any bay indenting the British North American coast more than 3 miles from the shore.

It is curious to note that in the opening British case before the Halifax Commission, no mention is made of the headlands question that had from time to time been a subject of theoretical discussion between the two Governments. But after the case had been presented the question

was referred to, but it appears to have been dropped in view of the fact that fishing in such bays did not appear to be of any substantial value at that time. Thus the bay and headland matter stood when these last negotiations began.

The first article of the treaty now under consideration provides for the appointment of a mixed commission, to delimitate "the British waters, bays, creeks, and harbors of the coasts of Canada and of Newfoundland, as to which the United States, by Article I of the convention of October 20, 1818, between the United States and Great Britain, renounced forever any liberty to take, dry, or cure fish."

Certainly a delimitation of 3 miles from the shore could not possibly be made more clear than it was by the treaty of 1818. Monuments can not be set up in the sea which shall separate the waters of Her Majesty's dominions from the waters belonging to the fishermen and all other people of the United States in common with the rest of mankind.

The only possible point must be to describe what were British bays, etc., and if this article had only been devoted to naming the bays, etc., that were less than 6 miles wide, there might have been some theoretic ground for such an operation. But the treaty easily dismisses all such as a part of the coast line, and proceeds to show that the 3-mile limit mentioned in the treaty of 1818 is not the one that is to define the rights of citizens of the United States, but that a new and different principle, entirely favorable to Great Britain, is to be adopted. To this end the third article of the treaty provides that the 3 marine miles mentioned in the treaty of 1818—

shall be measured seaward from low-water mark; but at every bay, creek, or harbor, not otherwise specially provided for in this treaty, such 3 marine miles shall be measured seaward from a straight line drawn across the bay, creek, or harbor, in the part nearest the entrance at the first point where the width does not exceed ten marine miles.

By this simple British process the 3 miles mentioned in the treaty of 1818 is nearly doubled and extended to 5 miles from either shore at the entrance or along the bays indenting the coast. It needs no comment to show that this provision is not an execution of the treaty of 1818, but is making, by an assumed construction or otherwise, a new one of entirely different dimensions and entirely in the interest of Her Majesty's Government.

But this is not all. The "plenipotentiaries" went still farther (not stopping at nearly doubling the area of British municipal dominion

measured by the treaty of 1818), and agreed that many of (and perhaps all the valuable) great bays, much more than 10 miles in width, should be forevermore included in British municipal dominion, and that forevermore no American fisherman should have the right to drop a line or cast a seine therein.

These great bodies of water, thus given up to the British, are named in the treaty as follows: (1) The Baie des Chaleurs; (2) Bay of Miramichi; (3) Egmont Bay; (4) St. Ann's Bay; (5) Fortune Bay; (6) Sir Charles Hamilton Sound; (7) Barrington Bay; (8) Chedabucto Bay; (9) Mira Bay; (10) Placentia Bay; (11) St. Mary's Bay.

These agreements contained in article 4 of the treaty, as has been said, really cede (so far as the United States are concerned) to Great Britain forever the complete dominion over these numerous and, for fishing purposes, the most valuable of the bays along the coasts of British North America, and exclude forever all the American fishing vessels therefrom, except for the limited and narrow purposes mentioned in the treaty of 1818, and recognize that by force of the treaty of 1818 these are and always have been British waters, while it is thought by the committee that by the public law of nations these same waters will be open to the vessels of all other countries than our own, unless they, too, shall, from generosity or fear, or for some consideration, renounce their right to use the same.

The principle on which this article is formed is a recognition by the United States of the municipal and territorial sovereignty of Great Britain in and over all the other bays, etc., on the British North American coast, however large, in which, by this treaty, our citizens are to be admitted to fish, exterior to a line 3 miles from shore.

The article in terms professes to delimit the *British bays mentioned in the treaty of 1818*, and as it mentions eleven such bays even more than 10 miles wide, and some of which are 20 or more miles wide, it follows that the British contention of municipal dominion over all bays without regard to width, is acted upon, and that the right of Americans to fish in the few other wide bays not mentioned is a grant by the British Government.

If the Baie de Chaleurs is a now British bay, so also must be the bay of Fundy and all the rest. But if it be suggested that the "plenipotentiaries" renounced the right of fishing in these bays as public waters (for which no hint appears in the treaty) in consideration of supposed advantages gained to the United States by other provisions of the

treaty, it is, the committee thinks, equally objectionable; and this entirely without regard to any present practical value or want of value of the fisheries therein. It is not thought by the committee to be suitable to the dignity or interests of the United States to renounce the right of its citizens to pursue business in any part of the public waters of the world. Such rights, the committee thinks, should neither be the subjects of purchase, sale, barter, nor gift.

The question of the extent of territorial dominion, as it respects the exercise of fishing rights in bays more than 6 miles wide indenting the shores of a country, must of course be determined by the law and practice of nations as they existed in the year 1818, at which time, as the committee thinks, the 3-miles limit from shores was recognized without regard to large indenting bays, except under very peculiar circumstances, such as the prescriptive exercise of dominion, etc. Whether, in view of recent inventions in the implements of warfare, it may not be politic for maritime nations to agree upon an enlargement of the boundaries of their territorial dominion seaward is a question well worthy of consideration, but it has no place in respect of the matters now in hand.

The supposed precedent for such agreements as are set up in this treaty, of the convention of 1882 (Ex. Doc. 113, p. 18), between Great Britain, Germany, Belgium, Denmark, France, and the Netherlands, is very far indeed from being such. That was for the *police regulation* of the fisheries in the North Sea, and on the coasts of all the contracting parties. It was limited to five years, and not perpetual, as this treaty is. It neither granted nor renounced any right. The freedom of navigation, etc., inside the 3-mile limit was reserved. The naval vessels of the respective powers were to enforce the regulation. For serious infractions not settled at sea the offending vessel was to be taken to a port of her own country for trial.

Such regulations as these just cited might well have formed a precedent for composing the differences between the United States and Great Britain; for, first, they did not admit territorial dominion as existing over bays more than 6 miles wide, but conferred it for the time being and for a limited purpose; second, they recognized the rights of fishing vessels to be considered as vessels entitled to the rights of all other vessels bearing the flag of their country, without regard to their occupation, so far as it respected every thing else than fishing; third, they placed the administration of these fishing affairs in the commanders

of national vessels; and, fourth, they provided that an accused vessel should be taken to her own country for trial.

The contrast between this North Sea fisheries treaty, to which Great Britain was a party, and the one now before the Senate is vivid. They are substantially the opposites of each other in nearly every particular.

Nor does the treaty now before the Senate bear any material resemblance to the protocol proposed by Mr. Seward in 1866 (Ex. Doc. 113, p. 17), nor to the scheme sent by Mr. Bayard to Mr. Phelps in November, 1886 (Ex. Doc. 113, Fiftieth Congress, first session, p. 17).

The fifth article of the treaty, declaring that the treaty shall not be construed to include within common waters any interior portions of bays, etc., that "can not be reached from the sea without passing within the 3 marine miles mentioned in Article I of the convention of October 20, 1818," is very sweeping, and may cover a great deal more than the mere reading of it would imply to one uninstructed in the nature of the northeastern lands and waters, with their deep indenting bays, their many islands and islets, and their tremendous tides, the rise and fall of which, in many places, change the aspects of nature to an astonishing degree. But it is purely language making the test the capacity of *passing* within 3 miles of the shore, and plainly indicates that no matter how large may be the bay, no matter how wide apart may be its headlands, no matter how deep may be the waters between such headlands at high tide, if the ship-channel to it at low tide be within 3 miles of land it is an excluded bay.

Having now seen what the proposed treaty accomplishes in respect of "delimitation," we proceed to examine its provisions in respect of what American vessels engaged in fishing on the high seas may and may not do in British North American waters ascertained, enlarged, and defined as before stated, and in the ports on those coasts.

In order to understand more clearly the disastrous nature of what the "plenipotentiaries" have agreed to, it is valuable to consider and again state the situation of affairs existing in 1818, and to which the treaty of that year applies.

Before and at that time and down to 1830 no American vessel of any kind was as of right admitted to any British North American port, and no rights of commerce or trade existed (with the few exceptions before stated); and, reciprocally, no British North American vessel of any

kind, fishing or other, was admitted to ports of the United States otherwise than as an act of mutuality in the cases stated. The treaties of 1794 and 1815 purposely left all these ports and all trade between British North America and the United States to be regulated according to the particular policy of each nation. Such is still the condition of things so far as any treaty obligation is concerned, excepting article 29 of the treaty of 1871.

In 1818, then, no American fishing vessel or any other American vessel could enter a port on any of the coasts of British North America, even where the full right of fishing in-shore existed. And the treaty of 1818, formed on that basis, was not intended to, and it did not in any way, touch the question of any trade or commercial right whatever, and of course made no distinction in these respects between fishing and other American vessels. It looked and spoke only in regard to the fact of the renunciation by the United States of their fishing rights in that part of the territorial waters of British North America named in the treaty, and, as an *incident* of that renunciation and as an incident only, it provided that American fishing vessels might enter those renounced waters, not to fish, but only for "the purpose of shelter and of repairing damages therein, of purchasing wood, and obtaining water;" and this right was to be exercised under such restrictions as should be necessary to prevent their fishing, etc., therein, or in any other manner abusing the privileges so reserved to them.

These words, "in any manner abusing the privilege of entry," clearly referred to the then existing state of British law which prevented all trade intercourse by foreign vessels with the provinces, and were intended to authorize such action on the part of Great Britain as should be justly necessary to prevent violations of British navigation and commercial laws.

But in the course of years, when after these mutual arrangements of a legislative character were made, the business and trade between the United States and British North America developed, the British North Americans, like their fellows in England, began to see that the American system of customs laws operated to the advantage of American citizens and industries and unfavorably to Canadian and British interests. They then commenced, and have since steadily continued (except during the intervals of so-called reciprocity, under the treaties of 1854 and 1871), a systematic and persistent course of hostile legislation and administration under the pretext of enforcing the restrictions of the

treaty of 1818, well calculated, and designed, as the committee thinks is clear, to so embarrass and harass the citizens of the United States, engaged in the legal pursuit of fishing on the high seas as well as in the British North American waters reserved to them by the treaties of 1783 and 1818, as to drive them out of the business, and so to leave it all in British hands, or else to induce the United States, by such a course of unfriendly and even outrageous conduct, to allow the free entry of Canadian fish and other products into our markets as the price of their fair treatment of our fishermen.

Yet, during the last two or three years of this course of studied injustice and of outrage, while no American fishing vessel, even bearing a full commercial character under the laws of the United States and with the flag of the United States at the fore, could enter a port of British North America for any purpose without being exposed to seizure and forfeiture, or enter a British North American harbor for shelter or to repair damages or obtain wood and water without being subjected to this unjust and even outrageous treatment, the fishing vessels of British North America could lawfully and without molestation enter any harbor or port of the United States, sell or transship their cargoes, and do every kind of trade, and depart in peace.

This condition of things became so intolerable that, at last, the remonstrances of the Executive became vigorous and urgent, and on the 8th of December, 1886, the President sent to Congress the following message on the subject:

To the Senate and House of Representatives of the United States:

I transmit herewith a letter from the Secretary of State, which is accompanied by the correspondence in relation to the rights of American fishermen in the British North American waters, and commend to your favorable consideration the suggestion that a commission be authorized by law to take perpetuating proofs of the losses sustained during the past year by American fishermen, owing to their unfriendly and unwarranted treatment by the local authorities of the maritime provinces of the Dominion of Canada.

I may have occasion hereafter to make further recommendations during the present session for such remedial legislation as may become necessary for the protection of the rights of our citizens engaged in the open-sea fisheries of the North Atlantic waters.

GROVER CLEVELAND.

EXECUTIVE MANSION,

Washington, December 8, 1886.

Justly influenced, doubtless, by this message and by the state of affairs shown in the documents accompanying it and by the evidence

taken by, and the report of the Senate Committee on Foreign Relations on the same subject made on the 19th of January, 1887 (Rep. No. 1683, 49th Cong., 2d sess.), Congress came to the conclusion that the period of negotiation and unavailing remonstrance had passed, and with almost absolute unanimity and without any party division enacted the act of March 3, 1887, hereinbefore mentioned, by which the duty was imposed upon the President of withdrawing from British North American vessels, etc., those liberties and advantages which by the pre-existing laws they were enjoying in the harbors and ports of the United States, whenever and as often as it should appear to him that similar rights and liberties were denied the United States fishing vessels, etc., in the ports, etc., of British North America, or whenever it should appear to him that American fishing vessels should have been subjected to outrageous or unjust treatment in the exercise of the rights secured to them by the treaty of 1818.

All that remained unprovided for according to the sense of self-respect and of just policy on the part of the United States was to obtain indemnity from the British Government for the injuries that had thus far been committed.

In view of this state of affairs, thus briefly mentioned, we come to consider what the proposed treaty undertakes to provide in regard to American vessels engaged in fishing.

The first clause of Article X provides that American fishing vessels entering the bays or harbors referred to in Article I shall conform to harbor regulations common to them and Canadian fishing vessels. This, by necessary implication, concedes the right on the part of the Canadians to subject United States fishing vessels resorting to a British North American bay for shelter from a tempest, to the municipal laws of Canada, no matter how far different those regulations may be from the provision in the treaty of 1818 giving to the British the right only to make such restrictions as should be *necessary to prevent an abuse of the privilege* of entry for the purpose stated.

This clause adopts the principle of the British contention in the Fortune Bay affair, which contention was that American vessels in Canadian waters, under either the treaty of 1818 or 1871, were subjected to all the municipal laws of that country. This British contention was successfully resisted by Mr. Evarts, then our Secretary of State, and the

GROVER CLEVELAND.

British Government paid an indemnity for an interference with our fishing vessels in respect of their being engaged in fishing in those waters contrary to the municipal statutes of Newfoundland.

This clause, then, gives away important American rights, and adopts the principle that under the treaty of 1818 American fishing vessels are subject to the full force of foreign municipal law. But this clause is, in part only, qualified by the next, which excuses them from reporting, entering, or clearing when putting into such bays for shelter or repairing damages, and when putting into the same *outside the limits of established ports of entry*, for the purpose of purchasing wood or obtaining water, with certain exceptions even in respect of that excuse. But we think it may be safely assumed to be true that there are very few, if any, British North American bays or harbors that are not within the limits of established ports of entry, for doubtless (which is the case in the United States) the Dominion customs laws bring every part of the seashore, and all its bays and harbors, within the customs limits of some port of entry.

This modification, then, of the sweeping requirement of the first clause really amounts to nothing, and, indeed, can (if it does not already) by a simple legislative or administrative act of the Dominion government bring every bay and harbor and every part of the coast within the limits of established ports of entry, and thus again completely surrender the fishing vessels of the United States to every commercial regulation of the Dominion government which operates against them, while it gives them almost none of the benefits of commercial intercourse.

The next clause, also, further provides that American fishing vessels, when in these bays and harbors for shelter, etc., under the treaty of 1818, shall not be liable for harbor dues, etc. This is a mere statement of what results from the treaty of 1818, for it has no application to these vessels other than in their purely fishing character, and in that character they were not subjected by the treaty of 1818 to any such imposition, and could not be, for none of them were necessary to prevent their fishing or to prevent their smuggling.

Article X, then, taken as a whole, is a diminution instead of an enlargement of the rights of American fishing vessels under the treaty of 1818, and its modifying and limiting clauses would be only valuable in any case as a renunciation by Great Britain of a totally unfounded pretension.

Article XI provides, first, that American fishing vessels entering the ports, etc., of British North America under stress of weather or other *casualty* may unload, reload, transship, or sell, subject to customs laws, all fish on board, when such unloading, transshipment, or sale is made *necessary as incidental to repairs*, and may replenish outfits, provisions, or supplies damaged or lost by disaster, and in case of death or sickness, shall be allowed all needful facilities, including the shipping of a crew.

The most of these provisions are already clearly covered by the treaty of 1818, and all of them are covered by the real substance and spirit of the arrangement of 1830; and in respect of transshipment, by article 29 of the treaty of 1871. They are much more than covered by article 29 of the treaty of 1871, and are, in fact and effect, a voluntary abandonment on the part of the United States of the rights secured in respect of the transshipment of all American goods and merchandise arriving at any British North American port. That article uses language of the most comprehensive character, and it can not be doubted that under it a Canadian fishing vessel bringing a cargo of fish from the fishing-grounds to the south of Nantucket, or from any other place on the high seas or any British waters, to the ports of New York, Boston, or Portland, would be entitled to land them and transship them to Canada without the payment of any duty, and it is, of course, equally clear that a cargo of fish on board a fishing vessel of the United States, when brought from the fishing-grounds of the high seas or elsewhere to any British North American port, may, in like manner, be entered and transshipped to the United States without the payment of duty.

It would seem, then, that in respect of the clause of Article XI, now under consideration, as well as with respect of the clauses hereinbefore considered, that the Executive in negotiating this treaty had failed to remember, or had left out of view, what the present rights of citizens of the United States already clearly are under treaties now in force, and had proceeded upon the idea that every right that the United States is to obtain by force of this treaty is a new one, and is granted by Her Majesty's Government in consideration of the renunciation to her of the great bodies of water mentioned in the earlier articles of this treaty and of all commercial rights not mentioned in this treaty.

The next paragraph of Article XI provides that *licenses* in British North American ports shall be granted to United States fishing vessels on the *homeward* voyage only, to purchase such provisions and supplies

as are ordinarily sold to trading vessels, but such provisions shall not be obtained by barter nor purchased for resale or traffic. A Canadian fishing vessel, on whatever voyage, either outward or inward, may now lawfully purchase anything in a port of the United States that any citizen of the United States can purchase, and on the same terms, without any license whatever, and may dispose of any such purchase without any restriction. How does it happen that the United States are to buy, or to accept as an act of generosity, the privilege for our fishing vessels only when they are on the way home, sufficient food to preserve them from starvation, and under the restriction that, being without money, they must not obtain it by the exchange either of fish-hooks or wearing apparel?

If all vessels of the United States, including those engaged in the occupation of catching fish on the high seas, are now, under the arrangements of 1830, entitled as of right to trade in British North American ports, this clause of Article XI surrenders nearly the whole of such right; but if, under the arrangements of 1830 or otherwise, American vessels engaged in fishing on the high seas have no right of entry into British North American ports and no right to trade therein, and their enjoyment of such privileges depends upon the legislative policy of the British Dominion government, can the United States, with the least sentiment of self-respect or with the least regard to American honor, accept such a privilege, so limited, without on the other hand limiting the privileges of similar Dominion vessels in the ports of the United States?

The United States is under no treaty obligation whatever in respect of Dominion fishing or any other vessels, other than those contained in the treaty of 1871 and all those, whatever they may be, are strictly mutual. The committee thinks that such an arrangement as is here proposed, and which necessarily implies that there can be no other or greater rights of American vessels than those here described, is utterly inadmissible unless it be conceded that the business of American citizens carried on on the high seas, hundreds of miles, in many instances, from British North American coasts, is and ought to be subjected in British North American ports to the free will and pleasure of the government of that country and they are to have few of the rights that, by the common intercourse of nations, are accorded to the vessels of all countries as acts of hospitality and humanity, and which by treaty or legislative arrangements of nearly all nations are accorded to

the citizens of each in the ports of the other upon perfectly mutual and equal terms, and never otherwise. If we are to buy hospitality why should we not sell it? If we are to submit to British regulations of any occupation on the high seas why should not British subjects in like manner submit to a similar control or exclusion of their vessels by the United States?

The last paragraph of Article XI appears to be thought by the President in his message communicating the treaty to give to our fishing vessels, whether on the homeward voyage or not, the right of purchasing provisions and supplies that ordinarily belongs to trading vessels. In this the committee thinks the President is much mistaken. The first clause of the paragraph provides for licenses to purchase supplies for "the homeward voyage." It then says that such vessels, having obtained the required licenses, shall also be accorded upon all occasions such *facilities* for the purchase of casual or needful supplies as are ordinarily accorded to trading vessels.

If these last-mentioned words have the meaning imputed to them by the President, the words immediately preceding are absolutely useless and can have no meaning whatever; for the privilege, if expressed, is included within those afterwards used, and as the two phrases stand in immediate connection with each other, the absurdity of their insertion in such a case could not possibly have been overlooked by any intelligent person. And if such a really broad provision as is supposed was intended to be inserted in the treaty—one which was intended to completely reverse the whole British pretension upon the subject, and put our fishing vessels, for all purposes of provisions and supplies, upon the same footing that British fishing vessels occupy in the United States and that American trading vessels do in the British provinces—it certainly should, and probably would, have been stated in language incapable of sincere misunderstanding.

What the committee thinks it means is that an American fishing vessel, having obtained a license to purchase provisions on and for the homeward voyage, which is all that the first clause says or describes, viz, the mere act of obtaining the license upon application, such vessel, having obtained such license, shall, upon all occasions to which the license, viz, upon all occasions of the homeward voyage, be accorded facilities for doing what the license says she may. This, the committee thinks, is the literal and grammatical construction of the paragraph, and all that can be extracted from it by the ordinary principles of construction.

The whole of this article, then, as it appears to the committee, is one that would be totally derogatory to the honor and interests of the United States to agree to. The committee can never recommend or agree that any American vessel or citizen shall receive less free and favorable treatment in any foreign port whatever than is accorded to the vessels or subjects of such foreign country by the laws and policy of the United States.

The subject of commercial rights, viewed in another aspect, compels the inquiry whether it is not entirely absurd to consider that if a British port existed on the southwestern or western coast of Newfoundland, or on the coast of Labrador, in respect of which, by the treaty of 1818, there is no exclusion of American vessels from territorial waters, such American vessel could, so far as the treaty of 1818 is concerned, enter such port for all and the same purposes that any other American vessel could, and that, under the same treaty, 50 miles to the eastward on the southern coast of Newfoundland, the very same American vessel should not now have any right of entry for the same purpose?

The twelfth article of the treaty under consideration provides that—

Fishing vessels of Canada and Newfoundland shall have on the Atlantic coast of the United States all the privileges reserved and secured by this treaty to United States fishing vessels in the aforesaid waters of Canada and Newfoundland.

If this article was intended to put Canadian fishing vessels upon the same footing only in American ports and waters that American vessels are put in Canadian ports and waters, there would be mutuality and equality, however narrow, in it. But this, evidently, was not the purpose of the article, for it is evident to the committee that Great Britain would not have consented to any such great diminution of the rights of her fishing vessels as they now exist in the ports and waters of the United States. The article itself, it will be seen, while somewhat obscure, is still drawn in such a way as only to be affirmative, and measures privileges, reserved and secured, and says nothing of conditions and limitations and nothing of ports, etc. But, however this may be, the committee does not think that it comports with the dignity or hospitality of the United States to deny to British North American fishing vessels or those of any other country the ordinary commercial rights, hospitalities, and humanities that are now supposed to be nearly universal among nations calling themselves civilized, unless, unhappily, they should be compelled to do so in order to induce just and hospitable treatment to the vessels of our own country.

The thirteenth article provides that the Secretary of the Treasury of the United States shall make regulations for the conspicuous exhibition by every United States fishing vessel of its official number on its bows, and that no vessel shall be entitled to the licenses provided in the treaty which shall fail to comply with such regulations. This provision on its face and taken literally applies to every fishing vessel of the United States, whether it is ever to enter Canadian waters or not, and it is a law to the Secretary of the Treasury of perpetual application.

But assuming, however mistaken the language may have been for this purpose, that it is only to apply to United States fishing vessels entering Canadian ports or waters, it is bad enough, for it proceeds upon the idea that vessels of the United States engaged in the occupation of fishing are to be put under a ban of specific apparel and appearance that is not imposed upon any other vessel.

By the article next preceding, and already commented upon, all Canadian fishing vessels are entitled in our waters to all the privileges that American fishing vessels are entitled to have in Canadian waters so far as it regards fishing, at least; but they are not required to be thus numbered and marked. A hundred Canadian fishing vessels may anchor in the harbor of Gloucester, the great fishing port of the United States, and be entitled to every right and every hospitality only upon the evidence of their papers, which show their nationality and that they are not pirates; but if a single American fishing vessel appears in the harbor of Halifax, and under the guns of Her Majesty's forts, she can not obtain any supplies, and her crew may starve at anchor unless upon each bow there is the number affixed by order of the Secretary of the Treasury of the United States. Certainly, American fishermen and, we should hope, every other American citizen would not be proud of such a distinction.

The fourteenth article of the treaty deals with the subject of penalties for fishing contrary to the treaty of 1818 and the first article of this treaty, and thereby the United States are to agree that such penalty may extend to forfeiture, etc. This is a singular provision (and probably unique) to be found in a treaty between two civilized nations, the general tenor of whose laws and the general social nature of whose institutions are very nearly homogeneous.

The article also provides for a limitation or an exception, as the case may be, of the legal penalties for other violations of fishery rights, three dollars a ton.

It also provides that the proceedings shall be summary and as inexpensive as practicable and that the trial shall be at the place of detention—the place of detention being left to the discretion of the seizing authorities, for without special provision the seized vessel could be taken to any port in the Dominion.

It then provides that security for costs shall not be required of the defense except when bail is offered; that is to say, that when a vessel with all its furniture, tackle, apparel, and cargo, and its captain and all its crew are seized and arrested and taken to a place of detention, security for costs shall not be required until the arrested captain of the United States shall desire to release his vessel or get out of prison.

This certainly must be only what every just government should provide of itself. The same may be said of all the other provisions of the article. They are all identical with or analogous to the practice of civilized governments, and rest upon common principles of administration of justice. Surely they shouldn't be held no treaty worth bringing into practice.

The fifteenth article of the treaty is open and conditional, and provides that when the United States shall admit British North American fish oil, whale oil, seal oil, and fish of all kinds except fish preserved in oil, free of customs duties, the like products of the United States shall be admitted free into British North America, and it is also provided that in that case United States fishing vessels may be entitled—not to fish in-shore as the treaty of 1871 provided but—to annual *licenses* for the following purposes in British North America:

- 1) The purchase of provisions, bait, ice, seines, supplies, etc.
- 2) The transshipment of catch.
- 3) The shipping of crews, but that supplies shall not be obtained from the harbor.

4) And that the like privileges shall be *continued* or given to British vessels of British North America on the Atlantic coast of the United States.

This is a much worse "reciprocity" than existed under the treaty of 1871, for while the treaty of 1871 was silent in respect of commercial rights in either country and left the matter of the commercial rights standing upon mutual legislative regulations of the two countries, the treaty limits the rights of the fishing vessels to certain specified forms and descriptions of commercial privileges, though it does seem to recognize the truth that would otherwise appear to have been forgotten.

the negotiations, that Canadian fishing vessels now have commercial rights and privileges in the ports of the United States.

The impolicy of the general provisions of article 15 have already been twice fully demonstrated, and, on the last occasion of the kind, were unanimously abrogated by Congress. It is thought needless to now go into a discussion of that subject.

We have thus briefly reviewed all the substantial articles of the treaty of positive obligation excepting Article IX, which declares that nothing in the treaty shall affect the free navigation of the Strait of Canso. This article was evidently inserted on account of the renunciation by the United States of its rights in Chedabueto Bay—this bay being at the southern entrance of that strait.

It is almost unnecessary to say that the committee is fully sensible that in many matters of fair difference and of doubtful consideration between two governments, in order to arrive at an amicable composition thereof there must be mutual concessions, and that the same is true in respect of entering into new engagements for commercial and other intercourse between nations; in order that, in the last-named case, perfect mutuality of right and privilege may be had in respect of the same matters; but the committee does not think that the proposed treaty can be justified in this way.

The idea of concession was doubtless the ground and guide upon which the treaty of 1818 was founded. At the time of that treaty the United States claimed (and justly as the committee thinks) that the fishing rights recognized by the treaty of 1783 on all the shores of British North America were property rights and that they were not lost by the war of 1812, and that after the treaty of peace of 1814, which made no mention of the subject, those rights existed with all their original force.

The British Government insisted upon the contrary and that the right of citizens of the United States to fish in any British North American waters had been entirely lost. This led to a partition of the disputed territory—whether wise or unwise is immaterial to the present question—but in making this settlement the contracting parties had evidently in view the then understood law of nations, that territorial waters only extended to three miles from the shore; and they also had in view the then existing state of treaty and legal relations between Great Britain and the United States in respect of intercourse between the British North American Provinces and this country, and the treaty

provided in clear terms where, in British waters, United States fishermen might fish and where they might not.

The only possible question that could fairly arise under the treaty of 1818 was the question what was a British bay. But the question, as a practical one, has been in all the sixty-nine years since the making of that treaty of little or no account; for, so far as is known, the only seizure of an American vessel by the British authorities for fishing more than 3 miles from the shore in a bay more than 6 miles wide was the seizure of the *Washington*, in 1843, and in that case, as has been before stated, the international umpire decided the seizure to have been an illegal and unjust one.

What American fishermen standing in all other respects on the footing of other Americans engaged in business on the sea, might do in their character as fishermen in the territorial waters and harbors of British North America was clearly stated, and in language that would seem to have been incapable of sincere misunderstanding.

The whole of the substance of the present state of the difficulty and discord has arisen from the course of the British and Canadian legislation and administration, directed against the vessels and fishermen of the United States in respect of their coming into British North American ports or harbors or within three miles of their shores, either under treaty rights or commercial rights.

In view of the plain history of these transactions and of the matters hereinbefore stated, it does not seem to the committee that the existing matters of difficulty are subjects for treaty negotiation; and such appears to have been the opinion of the Senate by its action and by the remarks of many of its members of both political parties and by the action of the House of Representatives upon and in the passage of the act of March 3, 1887, and its approval by the President.

No new event or situation of affairs has arisen since that time, and the only real questions subsisting between the two countries in respect of the subject were those of reclamations by the United States for outrages upon its citizens, for which this treaty makes no provision, and the question of whether the mutual arrangements of 1830 and the mutual rights of transit under the treaty of 1871 shall continue.

This treaty makes no provision for an indemnity. It does make provision for establishing for the full measure and limit of rights and privileges to be enjoyed by fishing vessels of the United States, whatever other character they may have and appear in, in the ports and waters of British North America, and it thus surrenders rights

and privileges that the committee thinks are clearly and fully established under the arrangements of 1830, and the treaty of 1871, or, if such rights and privileges can be claimed not to exist in these respects, that it provides, as of original and perpetual engagement, for the exclusion of the American vessels engaged in a particular occupation on the high seas from the ordinary humanities and hospitalities and equalities enjoyed in the British North American ports by all other vessels of the United States, and, so far as is known, all the vessels of every character of every other country, while at the same time British North American vessels engaged in the same occupation and in the same seas have, without restraint, every right and facility of commerce, hospitality, and immunity in all the ports of the United States. To enter into such an engagement, finally and perpetually, as this, the committee thinks contrary to the dignity and just interests of the United States.

The committee regrets that these conclusions do not meet the approval of all its members. It had hoped, as has been the case generally hitherto, that no influences or divisions of a nature coincident with the lines of political parties would enter into a matter of this character, and that, as was the case only a little more than a year ago, all Senators of all political parties would unite in standing firmly in the attitude taken in the winter of 1886-'87 and culminating in the act of March 3, 1887, and in declining, at whatever cost, to enter into any new engagements with the British Government that should leave any American citizen, engaged in whatever occupation or business, deprived of any right or privilege, other than fishing, in any British North American or other waters, that is or may be granted to citizens of the United States engaged in any other occupation, and that have been and are fully and freely granted by the United States to every British subject, whatever may be his occupation.

The committee thinks it due to the Senate to state that, contrary (as it believes) to the universal previous practice of the Executive in connection with the consideration of treaties when the Senate has asked for all the papers and information in detail concerning the progress of the negotiations, the Executive has not thought it for the "public interest," in this instance, to communicate all such papers and such detailed information to the Senate, although the Senate requested it; and it was stated in reply to the resolution of request that the deliberations of the pleni-

potentiaries were in confidence, and "that only results should be announced and such other matters as the joint protocolists should sign under the direction of the plenipotentiaries."

It is, however, stated that every point submitted to conference is covered by papers already in possession of the Senate, excepting the question of damages sustained by our fishermen, and which, it is stated, was met by a counter-claim for damages to British vessels in the Behring Sea. It is then added that—

To the discretion and control of the Executive are intrusted the initiation and conduct of the negotiation of treaties, and without the guaranty of mutual and implicit confidence between the agents, negotiations for the voluntary adjustment of vexed questions in controversy between nations could not hopefully be entered upon.

It thus appears to be claimed by the Executive that the Senate, without whose advice and consent no treaty can be concluded, has no right to be informed, confidentially, of the course of negotiations and discussions and the various propositions and arguments *pro* and *con* arising in the negotiation of a treaty. The committee feels it to be their duty to protest against any such assumption. It believes that such a claim is contrary to the essential nature of the constitutional relations between the President and the Senate on such subjects, and that it is the reverse of the continuous practice in such matters from the commencement of the Government to this time.

The principal points of the treaty, etc., that have been considered by the committee in the foregoing statement and discussion may be summarized substantially as follows:

SUMMARY.

I. The United States recognize as British territory and renounce forever all claim of independent right in all the great bays along the British North American coasts, named in the treaty, and admit that such bays form a part of and are within British territorial sovereignty and jurisdiction.

II. Of the few of such great bays that are left to be visited by American fisherman the larger part are understood to be valueless, and some of them are subject to French fishery rights older than our own, if they are British bays.

III. If bay fishing is not profitable now it may be in the future.

IV. Whether profitable or not, the United States ought not to give up, upon any consideration whatever, the right of its vessels of every character to visit and carry on business in any part of the public seas.

V. The treaty surrenders the claim and right of the United States, which has been acted upon and exercised for now more than a century, of its vessels engaged in fishing or other occupations to visit and carry on their business in these great bays, and the principle of which claim and right has once been solemnly decided against Great Britain by a tribunal organized under a treaty with that Government.

VI. The new area of delimitation described in the treaty greatly increases the danger of our fishermen unintentionally invading prohibited waters, and thereby exposing them to seizures and penalties.

VII. The treaty, by its fifth article, renounces any right of the United States in any bay, etc., however large, that "can not be reached from the sea without *passing* within the 3 marine miles mentioned in article 1 of the convention of October 20, 1818," thus excluding vessels of the United States from all waters, however extensive, and the distance between whose headlands is however great, the sailing channel to which may happen to be within 3 miles of the shore.

VIII. The treaty is a complete surrender of any claim of a right now existing either under the treaty of 1783, the treaty of 1818, the acts of Congress and the British orders in council of 1830, or the twenty-ninth article of the treaty of 1871, for vessels of the United States engaged in fishing anywhere on the high seas, and even having a commercial character also, to enter any port of British North America for any commercial purpose whatever, and puts in the place of these clear rights, which, in respect of British fishing vessels, exist in the United States to the fullest extent, greatly restricted and conditional rights as arising from a present grant of Great Britain.

IX. The United States to be content with whatever is given by Great Britain as the full measure of its rights, and to be content with whatever, or until greater hospitality and freedom of intercourse can be obtained by further concessions or considerations on our part.

X. In the face of all this it leaves British North American fishing vessels possessed of all commercial rights in all the ports and waters of the United States.

XI. Whatever privileges of commerce, hospitality, or humanity are thus provided for in the treaty are to be obtained only upon condition that no fishing vessel of the United States shall receive any of them unless such fishing vessel shall, under regulations of the Secretary of the Treasury of the United States, be branded with an official number on each bow, and that such regulation shall, before they become effectual, be communicated to Her Majesty's Government.

XII. It provides that general, and even then, much limited, commercial rights and rights of transshipment, as mentioned in article fifteen, shall be obtained only at the price of exempting all Canadian fishery products from our custom duties.

XIII. Its provisions concerning the executive and judicial treatment of American vessels and fishermen that may be seized or arrested for supposed illegal conduct are, to make the most of them, nothing other, and probably something less, than a statement of what the laws and conduct of any administration of every government professing to be civilized should adopt and exercise as an act of duty and justice.

XIV. Instead of diminishing sources of irritation and causes of difficulty, different interpretations and disputes, it will, the committee thinks, very largely increase them.

Various other suggestions adverse to the wisdom of ratifying this treaty might easily be made, but the committee does not think it necessary to go into them.

The committee can not but hope, that if these ill-advised negotiations, which, as is known to all the world, can not properly commit the United States in any degree until they shall have received the constitutional assent of the Senate, shall fail to meet the approval of this body, Her Majesty's Government will take measures to secure justice and fair treatment in her North American dominions to American vessels and American citizens, in all respects and under all circumstances, and that that Government will see the justice and propriety of according to American vessels engaged in the business of fishing all the commercial rights and facilities in her North American ports that are so freely and cheerfully accorded to her own in the ports of the United States, and that thus the friendship and good feeling which ought to exist between neighboring nations may be finally established and secured.

JOHN SHERMAN.
GEO. F. EDMUNDS.
WM. P. FRYE.
WM. M. EVARTS.
J. N. DOLPH.

MAY 7, 1888.

IEWS OF THE MINORITY OF THE COMMITTEE ON FOREIGN RELATIONS

UPON THE

Treaty signed on the 15th February, 1888, by the plenipotentiaries of the United States and Great Britain, dissenting from the report of the majority of that committee, which recommends that the Senate refuse to advise and consent to the ratification of said treaty.

The minority of the Committee on Foreign Relations dissent from the report of the majority recommending the rejection of the treaty with Great Britain dated February 15, 1888, and submitted to the Senate for its consideration, and present the following as their principal reasons for their dissent :

Two objections to this treaty were stated in committee.

(1) That it had been negotiated and signed by persons who were not duly empowered, under the Constitution and laws of the United States, to conduct and conclude a treaty.

(2) That the treaty, on its merits, should not be ratified by the Senate.

To meet the first objection, a member of the minority of the committee introduced the following resolution :

Resolved, That the treaty signed by Thomas F. Bayard, William L. Putnam, and James B. Angell, as plenipotentiaries of the United States, in conjunction with the British plenipotentiaries, on the 15th day of February, 1888, and sent to the Senate by the President as a treaty duly negotiated, for the consideration and action of the Senate, is properly authenticated as a treaty made by the President of the United States, acting within his constitutional powers, and is lawful and valid as a negotiation.

The purpose of this resolution was to bring before the Senate, in distinct form, the recommendation of the committee as to the merits of the treaty, apart from any collateral matter relating to the negotiation of the instrument.

In committee, this resolution was laid upon the table, and thereby any recommendation as to the question it presents, in answer to the first objection to the treaty, as above stated, was avoided.

The minority of the committee hold that it is entirely competent for a majority in the Senate to declare that the treaty has been negotiated and signed in a proper manner, and by persons duly qualified, or otherwise to return it to the President as a paper that does not call into exercise the powers and jurisdiction of the Senate upon the question of its ratification by them. And, if a majority in the Senate shall declare that the treaty is sent to the Senate by the President and is duly signed and authenticated, or if no objection to it on that ground is made, then the subject-matter of the treaty is in order and should be considered by the Senate.

It is not disputed, or, so far as the undersigned are informed, doubted, by any one that the Senate may accept and ratify, on the part of the United States, any treaty that the President has made with a foreign government, that he sends to the Senate for consideration, and may waive any informality attending its negotiation.

In accepting the paper sent to the Senate by the President as a treaty, and by referring the same to its committee, the Senate have virtually waived any informality, if there is any, in the negotiation and signing of the instrument, and the undersigned conceive that the whole duty of the committee was to consider and report upon the merits of the treaty.

The undersigned will, therefore, present their views upon the substance of the treaty, first, and will then state the reasons that force them to the conclusion that there can be no just ground for the rejection of the treaty, growing out of the manner of its negotiation.

If it is better for the country that the treaty should be ratified, the rejection of it for matters that are merely formal or technical, in so grave an emergency as is now presented in connection with this old and harassing controversy, would be a serious injury to the country.

The undersigned believe that it is better for our country that the treaty should be ratified, and they are equally convinced that the entire class of our people who are actively engaged in our North Atlantic fishing industry will be benefited by its ratification.

The first article of the treaty of 1818 is as follows:

Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland; from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company. And that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but, so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

Articles 18 to 25, both inclusive, of the treaty of 1871, covered the whole subject of the fishing rights and liberties between the United States and the British North American colonies, "*in addition*" to those secured by the treaty of 1818. No other articles in the treaty of 1871 related to the fisheries, or the rights of fishermen. When the United States abrogated these articles, that completely ended the influence of that treaty over our fishing rights. Article 29 was not terminated, but it never had the least reference to the fisheries treaty of 1818, to enlarge its scope, change its meaning, or in any way to affect any right to which that treaty related. Yet, if that is not the true meaning of the 29th article of the treaty of 1871, this present treaty in no way affects that article, and it stands for all that it was ever worth in favor of our fishermen.



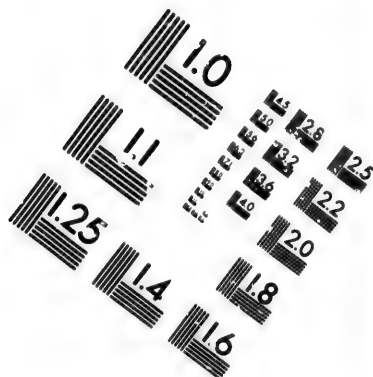
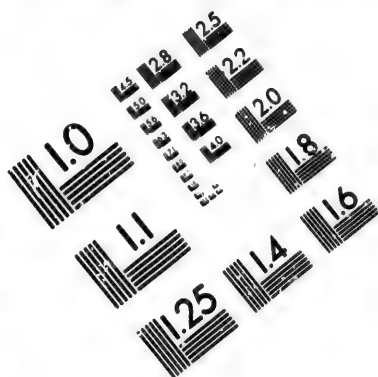
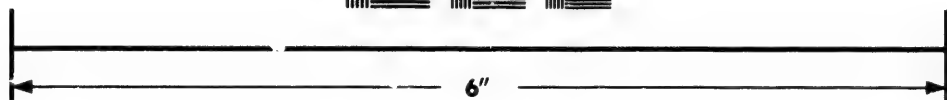
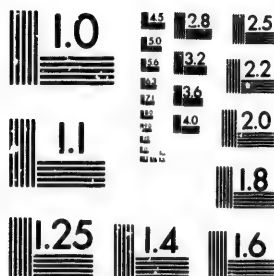


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I.

GENERAL STATEMENT OF THE SITUATION WHICH HAS RESULTED FROM THE "MISUNDERSTANDING" AS TO THE TRUE MEANING OF THE TREATY OF 1818.

During seventy years the people of the United States and of the British North American provinces in the northeast have been frequently engaged in contention and dispute, in controversy and conflict, about the true interpretation of the fisheries treaty of 1818.

The most frequent and serious disagreements have arisen under the *proviso* to the first article, which is as follows:

Provided, however, That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, and of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

This proviso, as it was proposed by our negotiators, contained the words "and bait" after the word "water." These words were stricken out, with the consent of our Commissioners. The right to obtain bait was thus finally disposed of as a treaty right.

In this proviso the four distinct "privileges hereby reserved to" American fishermen are stated definitely, while "such restrictions as may be necessary to prevent" them in any manner from "abusing the privileges" reserved to them are not defined, except in the most general terms.

American fishermen are placed "under such restrictions" with no guaranty as to the jurisdiction, whether provincial or imperial, that shall promulgate and enforce them; or whether they shall be declared by legislative authority, or administered by executive authority or by the judiciary.

It was contemplated in this treaty that further definitions on these delicate questions should be settled, either by the future agreement of the treaty powers, or that Great Britain should choose the tribunals that would declare and enforce these "restrictions" against American fishermen, subject only to the requirement that they should be "such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

That controversies would arise under this uncertain definition of the power to prescribe restrictions to our fishermen in the enjoyment of

positive treaty rights was as certain in 1818 as seventy years' experience has proven it to be, in an unfortunate history.

It was probably expected in 1818 that the good sense of the people and the good will of their Governments would enable them to arrange these indefinite "restrictions" by precedent and acquiescence, and thus adopt a series of regulations, the justice and propriety of which all would admit. But such hopes, if they were entertained, have been disappointed, and the eager rivalry that a very lucrative employment has stimulated has involved the people and their Governments in dangerous controversies as to the "restrictions" that were left without accurate definition in the proviso to the first article of the treaty of 1818.

Efforts have been made, that were for a time successful, to compose these and other troublesome questions growing out of article 1 of the treaty of 1818, by new treaty arrangements relating to the fisheries in British waters on the northeastern coasts.

In the treaty of 1854 the repose of these questions was secured for a time for the consideration of a liberal reciprocity extending to a variety of subjects. The right of the free navigation of the St. Lawrence River was included in that reciprocal agreement, and was made perpetual by the reciprocity treaty of 1871.

In the treaty of 1871 we again put these questions to rest for a time by the promise of enough money to equalize the possible advantages of the Canadian and other fisheries over those on our coast north of 39° north latitude.

Neither of these arrangements proved satisfactory to us as to the fisheries, and they were terminated by the United States.

In addition to these efforts, our diplomatists have employed every argument that seemed possible, through many years of laborious correspondence and conference, to find a ground of mutual understanding and consent as to the true interpretation of the treaty of 1818.

Without attempting to state all the cases of warnings, seizures, fines, and confiscations, of searches and captures and other rigorous applications of "restrictions" that have been visited upon our fishermen, it is painfully true that they have been very numerous, frequently very aggravated, and have caused our fishermen great expense and serious losses.

Every fishing season, when the reciprocity treaties were not in force, has added to these complications and rendered their solution more difficult.

That very little progress has been made in reaching a common basis of agreement in the solution of these contentions and conflicting constructions of the proviso in article 1 of the treaty of 1818, or in respect of the headland theory (which is based, as we understand, upon the language of that proviso and the preceding parts of that section, and not upon the principles of international law), is apparent from the citations of cases that have arisen since 1818, presently to be made.

Instead of a nearer approach to such an understanding as to a true and mutually acceptable construction of the first article of the treaty, a wider divergence of opinion and a more determined contention have characterized the diplomacy of both the treaty powers.

We seem now to have reached a point where we must seek to allay the growing bitterness of these differences by a friendly, sincere, and mutually respectful consideration of the positions assumed by each Government, or else we must enforce our views by vigorous measures of retaliation.

It seems to have become necessary to make such modifications of that treaty as are suggested by our changed commercial relations since 1818, and also by our methods of fishing with purse seines and of preserving fish in ice and snow, which have grown up into almost entirely new systems, with new attending wants, in the past thirty years.

The gradual abridgment of our right to land and cure fish on the shores of the British possessions, as the country along the shores should become populated, was provided for in the treaties of 1783, 1818, 1854, and 1871. This feature in a treaty is thought to be entirely novel. It relates to a future expected change in the condition of the then uninhabited coasts of British America. It certainly suggests in a forcible way that it was contemplated that future modifications of the treaties would be necessary to meet these changed conditions when they should occur.

The progress of civilization on the North American continent, with the necessary increase of commerce and of improvement in every industry, has wrought changes in the condition of the people which have demanded, from time to time, changes in the treaty relations of the adjoining countries that were indispensable.

The right of navigating the Mississippi and St. Lawrence Rivers, as now agreed upon, is a most forcible illustration of this necessity for an international policy, modified by international agreement, that will provide for the mutual wants and advantage of these adjoining countries as the occasion demands.

An inflexible adherence to the literal construction of ancient agreements that have become too narrow for the convenience of either country, whether it results from national jealousy or commercial rivalry, creates an incubus upon the progress of the communities concerned that is derogatory to those who refuse to yield their prejudices.

Mr. Bayard, in presenting to the consideration of the British Government the reasons for a more liberal interpretation of the treaty of 1818, and for an enlargement of the privileges of our fishermen in the colonial ports, strongly urged the necessity for this relaxation of the strict and literal construction placed by that Government on that treaty, because of the growth of the commerce of both countries, the building of vast lines of railways, the increase of population, the enlarged demand for the products of the fisheries, and the more intimate commercial and social relations of the people.

Such considerations demand careful attention, and are, of themselves, sufficient reasons to induce both Governments to lay aside prejudices and resentments, and to induce their people to cultivate friendly relations, rather than to put their welfare at hazard by fostering ill-will towards each other, resulting in continual strife.

To show the very serious results of a different policy, the undersigned present the following statement of cases that have arisen out of the conflicting views as to the meaning of the first article of the treaty of 1818. It is probably far short of the full list of cases that have actually occurred, but it is large enough to disclose the fact that wide and serious differences have existed since 1819 in the interpretation of that treaty, attended with complaints and remonstrances and protests, followed by diplomatic correspondence, and at times threatening the gravest consequences to the peace of the two countries.

In all the long list of cases that are here referred to only in one case, that of *The Washington*, seized for fishing in the Bay of Fundy in 1843, has any reparation been made for any wrong done our fishermen under the treaty of 1818.

Reparation was not, indeed, demanded in any such case until 1886.

List of cases above referred to.

1. June 26, 1822, *L'Orient* seized, taken to St. John, and condemned September 14, 1822.
2. In 1823, *Charles of York*, Maine, seized by the *Argus* and taken into port for trial.
3. July 18, 1824, *Gallion* seized, taken to St. John, and condemned August 16, 1824.
4. July 18, 1824, *William* seized, taken to St. John, and condemned August 16, 1824.
5. October 7, 1824, *Escape* seized, taken to St. John, and condemned November 18, 1824.

6. October 7, 1824, *Rorer* seized, taken to St. John, and condemned November 18, 1824.
7. October 7, 1824, *Sea Flower* seized, taken to St. John, and condemned November 18, 1824.
8. June 1, 1838, *Hero* seized, taken to Halifax, and condemned January 28, 1839.
9. November 1, 1838, *Combene* seized, taken to Halifax, and condemned January 28, 1839.
10. May —, 1839, *Java* seized, taken to Halifax, and condemned August 5, 1839.
11. June 4, 1839, *Shetland* seized, taken to Halifax, and condemned July 8, 1839.
12. May 26, 1839, *Independence* seized, taken to Halifax, and condemned August 5, 1839.
13. May 25, 1839, *Magnolia* seized, taken to Halifax, and condemned August 5, 1839.
14. May —, 1839, *Hart* seized, taken to Halifax, and condemned August 5, 1839.
15. June —, 1839, *Batelle* seized, taken to Halifax, and condemned July 8, 1839.
16. June 14, 1839, *Hyder Ally* seized, taken to Halifax, and condemned July 8, 1839.
17. June 14, 1839, *Eliza* seized, taken to Halifax, and condemned July 8, 1839.
18. June —, 1839, *May Flower* seized, taken to Halifax, and restored to its owners.
19. June 2, 1840, *Papineau* seized, taken to Halifax, and condemned July 10, 1840.
20. June 2, 1840, *Mary* seized, taken to Halifax, and condemned July 10, 1840.
21. September 11, 1840, *Alms* seized, taken to Halifax, and condemned December 8, 1840.
22. September 18, 1840, *Director* seized, taken to Halifax, and condemned December 8, 1840.
23. October 1, 1840, *Ocean* seized, taken to Halifax, and condemned December 8, 1840.
24. May 6, 1841, *Pioneer* seized, taken to Halifax, and condemned August 18, 1841.
25. May 20, 1841, *Two Friends* seized, taken to Halifax, and restored.
26. September 20, 1841, *Mars* seized, taken to Halifax, and condemned November 2, 1841.
27. September 20, 1841, *Egret* seized, taken to Halifax, and condemned November 2, 1841.
28. October 13, 1841, *Warrior* seized, taken to Halifax, and condemned November 9, 1841.
29. October 13, 1841, *Hope* seized, taken to Halifax, and restored.
30. October 13, 1841, *May Flower* seized, taken to Halifax, and condemned December 7, 1841.
31. May 7, 1843, *Washington* seized, taken to Halifax, and condemned August 1, 1843.
32. In 1844, *Argus* seized by the *Sylph*, off the coast of Cape Breton, when "fifteen miles from any land." "This was the second seizure under the new construction of the treaty of 1818."
33. In 1845, "an American fisherman * * * was seized in the Bay of Fundy, at anchor inside the light-house at the entrance of Digby Gut."
34. In 1846, "the seizure and total loss of several American vessels," not named, is noted in S. Doc. 22, 2d sess., 32d Congress.
35. May 10, 1848, *Hyades* seized, taken to Halifax, and condemned September 5, 1848.
36. May 11, 1849, *Leonidas* seized, taken to Halifax, and condemned June 29, 1849.
37. September 14, 1850, *Harp* seized, taken to Halifax, and condemned January 28, 1851.

38. October 29, 1851, *Tiber* seized, but there is no information as to the disposition made of it.
39. June 16, 1852, *Coral* seized, taken to St. John, and condemned July 23, 1852.
40. July 20, 1852, *Union* seized, taken to Charlottetown, and condemned September 24, 1852.
41. August 5, 1852, *Florida* seized, taken to Charlottetown, and condemned September 7, 1852.
42. September 11, 1852, *Caroline Knight* seized, taken to Charlottetown, and condemned.
43. In 1852, *Golden Rule* detained and taken to Charlottetown, and liberated on the owner acknowledging violation of the treaty and that the liberation was an act of clemency.
44. November 16, 1869, Vice-Admiral Wellesley reported that during the past season 162 vessels had been boarded by the British cruisers, of which 131 within the three-mile limit had been warned once, and 19 had been warned twice.

In 1870 the following eleven (11) vessels were seized and taken into the provincial ports, some of which were condemned, while others, perhaps, were liberated: June 27, *Wampatuck* (condemned); June 30, *J. H. Nickerson* (taken to Halifax); August 27, *Lizzie A. Tarr* (condemned); September 30, *A. H. Wonson* (taken to Halifax); October 15, *A. J. Franklin* (taken to Halifax); November 8, *Romp*; November 25, *White Fawn* (taken to St. John); and *S. G. Marshall*, *Albert*, and *Clara F. Friend*.

In January, 1878, the *Fred. P. Frye*, *Mary M.*, *Lizzie* and *Namari*, *Edward E. Webster*, *William E. McDonald*, *Crest of the Wave*, *F. A. Smith*, *Hereward*, *Moses Adams*, *Charles E. Warren*, *Moro Castle*, *Wild-fire*, *Maud and Effie*, *Isaac Rich*, *Bunker Hill*, *Bonanza*, *Moses Knowlton*, *H. M. Rogers*, *John W. Bray*, *Maud B. Wetherell*, *New England*, and *Ontario* were driven from Long Harbor in Fortune Bay by the violence of a mob, which destroyed some of their seines, and did not again that season return to their fishing-grounds. Twenty-two vessels were included in this list, the interference with which was made the occasion of a separate and important correspondence, conducted, on our side, chiefly by Mr. Evarts, Secretary of State.

The following lists are taken from the subjoined correspondence of Secretary Bayard and Professor Baird with Mr. Edmunds, chairman of the Committee on Foreign Relations:

Revised list of vessels involved in the controversy with the Canadian authorities.

DEPARTMENT OF STATE,

Washington, January 26, 1887.

SIR: Responding to your request, dated the 17th and received at this Department on the 18th instant, on behalf of the Committee on Foreign Relations, for a revision

of the list, heretofore furnished by this Department to the committee, of all American vessels seized, warned, fined, or detained by the Canadian authorities during the year 1886, I now inclose the same.

Every such instance is therein chronologically enumerated, with a statement of the general facts attendant.

Very respectfully, yours,

T. F. BAYARD.

HON. GEORGE F. EDMUNDS,
United States Senate.

List of American vessels seized, detained, or warned off from Canadian ports during the last year.

1. *Sarah B. Putnam*. Beverly, Mass.; Charles Randolph, master. Driven from harbor of Pubnico in storm March 22, 1886.
2. *Joseph Story*. Gloucester, Mass. Detained by customs officers at Baddeck, N. S., in April, 1886, for alleged violation of the customs laws. Released after twenty-four hours' detention.
3. *Seth Stockbridge*. Gloucester, Mass.; Antone Olson, master. Warned off from St. Andrews, N. B., about April 30, 1886.
4. *Annie M. Jordan*. Gloucester, Mass.; Alexander Haine, master. Warned off at St. Andrews, N. B., about May 4, 1886.
5. *David J. Adams*. Gloucester, Mass.; Alden Kinney, master. Seized at Digby, Nova Scotia, May 7, 1886, for alleged violation of treaty of 1818, act of 59, George III, and act of 1883. Two suits brought in vice-admiralty court at Halifax for penalties. Protest filed May 12. Suits pending still, and vessel not yet released apparently.
6. *Susie Cooper*. (Hooper?) Gloucester?, Mass. Boarded and searched, and crew rudely treated, by Canadian officials in Canso Bay, Nova Scotia, May, 1886.
7. *Ella M. Doughty*. Portland, Me.; Warren A. Doughty, master. Seized at St. Ann's, Cape Breton, May 17, 1886, for alleged violation of the customs laws. Suit was instituted in vice-admiralty court at Halifax, Nova Scotia, but was subsequently abandoned, and vessel was released June 29, 1886.
8. *Jennie and Julia*. Eastport, Me.; W. H. Travis, master. Warned off at Digby, Nova Scotia, by customs officers, May 18, 1886.
9. *Lucy Ann*. Gloucester, Mass.; Joseph H. Smith, master. Warned off at Yarmouth, Nova Scotia, May 29, 1886.
10. *Matthew Keany*. Gloucester, Mass. Detained at Souris, Prince Edward Island, one day for alleged violation of customs laws, about May 31, 1886.
11. *James A. Garfield*. Gloucester, Mass. Threatened, about June 1, 1886, with seizure for having purchased bait in a Canadian harbor.
12. *Martha W. Bradley*. Gloucester, Mass.; J. F. Ventier, master. Warned off at Canso, Nova Scotia, between June 1 and 8, 1886.
13. *Eliza Boynton*. Gloucester, Mass.; George E. Martin, master. Warned off at Canso, Nova Scotia, between June 1 and 9, 1886. Then afterwards detained in manner not reported, and released October 25, 1886.

14. *Mancat*. Gloucester, Mass.; Alexander McEachern, master. Warned off at Port Amherst, Magdalen Islands, June 10, 1886.
15. *Thomas F. Bayard*. Gloucester, Mass.; James McDonald, master. Warned off at Bourne Bay, Newfoundland, June 12, 1886.
16. *James G. Craig*. Portland, Me.; Webber, master. Crew refused privilege of landing for necessities at Brooklyn, Nova Scotia, June 15 or 16, 1886.
17. *City Point*. Portland, Me.; Keene, master. Detained at Shelburne, Nova Scotia, July 2, 1886, for alleged violation of customs laws. Penalty of \$400 demanded. Money deposited, under protest, July 12, and in addition \$120 costs deposited July 14. Fine and costs refunded July 21, and vessel released August 26. Harbor dues exacted August 26, notwithstanding vessel had been refused all the privileges of entry.
18. *C. P. Harrington*. Portland, Me.; Frellick, master. Detained at Shelburne, Nova Scotia, July 3, 1886, for alleged violation of customs laws; fined \$400 July 5; fine deposited, under protest, July 12; \$120 costs deposited July 14; refunded July 21, and vessel released.
19. *Hereward*. Gloucester, Mass.; McDonald, master. Detained two days at Canso, Nova Scotia, about July 3, 1886, for shipping seamen contrary to port laws.
20. *G. W. Cushing*. Portland, Me.; Jewett, master. Detained July (by another report, June) 3, 1886, at Shelburne, Nova Scotia, for alleged violation of the customs laws; fined \$400; money deposited with collector at Halifax about July 12 or 14, and \$120 for costs deposited 14th; costs refunded July 21, and vessel released.
21. *Golden Hind*. Gloucester, Mass.; Ruben Cameron, master. Warned off at Bay of Chaleurs, Nova Scotia, on or about July 23, 1886.
22. *Novelty*. Portland, Me.; H. A. Joyce, master. Warned off at Pictou, Nova Scotia, June 29, 1886, where vessel had entered for coal and water; also refused entrance at Amherst, Nova Scotia, July 24.
23. *N. J. Miller*. Booth Bay, Me.; Dickson, master. Detained at Hopewell Cape, New Brunswick, for alleged violation of customs laws, on July 24, 1886. Fined \$400.
24. *Rattler*. Gloucester, Mass.; A. F. Cunningham, master. Warned off at Canso, Nova Scotia, June, 1886. Detained in port of Shelburne, Nova Scotia, where vessel entered seeking shelter August 3, 1886. Kept under guard all night and released on the 4th.
25. *Caroline Vought*. Booth Bay, Me.; Charles S. Reed, master. Warned off at Passpebiac, New Brunswick, and refused water, August 4, 1886.
26. *Shiloh*. Gloucester, Mass.; Charles Nevit, master. Boarded at Liverpool, Nova Scotia, August 9, and subjected to rude surveillance.
27. *Julia Ellen*. Booth Bay, Me.; Burnes, master. Boarded at Liverpool, Nova Scotia, August 9, 1886, and subjected to rude surveillance.
28. *Freddie W. Allton*. Provincetown, Mass.; Allton, master. Boarded at Liverpool, Nova Scotia, August 9, 1886, and subjected to rude surveillance.
29. *Howard Holbrook*. Gloucester, Mass. Detained at Hawkesburg, Cape Breton, August 17, 1886, for alleged violation of the customs laws. Released August 20 on deposit of \$400. Question of remission of fine still pending.

30. *A. R. Crittenden*, Gloucester, Mass.; Bain, master. Detained at Hawkesbury, Nova Scotia, August 27, 1886, for alleged violation of customs laws. Four hundred dollars penalty deposited August 28 without protest, and vessel released. Three hundred and seventy-five dollars remitted, and a nominal fine of \$25 imposed.
31. *Mollie Adama*, Gloucester, Mass.; Solomon Jacobs, master. Warned off into storm from Straits of Canso, Nova Scotia, August 31, 1886.
32. *Highland Light*. Wellfleet, Mass.; J. H. Ryder, master. Seized off East Point, Prince Edward Island, September 1, 1886, while fishing within prohibited line. Suit for forfeiture begun in vice-admiralty court at Charlottetown. Hearing set for September 20, but postponed to September 30. Master admitted the charge and confessed judgment. Vessel condemned and sold December 14. Purchased by Canadian Government.
33. *Pearl Nelson*, Provincetown, Mass.; Kemp, master. Detained at Arichat, Cape Breton, September 8, 1886, for alleged violation of customs laws. Released September 9, on deposit of \$200. Deposit refunded October 26, 1886.
34. *Pioneer*, Gloucester, Mass.; F. F. Cruched, master. Warned off at Canso, Nova Scotia, September 9, 1886.
35. *Everett Steel*, Gloucester, Mass.; Charles H. Forbes, master. Detained at Shelburne, Nova Scotia, September 10, 1886, for alleged violation of customs laws. Released by order from Ottawa, September 11, 1886.
36. *Moro Castle*, Gloucester, Mass.; Edwin M. Joyce, master. Detained at Hawkesbury, Nova Scotia, September 11, 1886, on charge of having smuggled goods into Chester, Nova Scotia, in 1884, and also of violating customs laws. A deposit of \$1,600 demanded. Vessel discharged November 29, 1886, on payment, by agreement, of \$1,000 to Canadian Government.
37. *William D. Daialey*, Gloucester, Mass.; J. E. Gorman, master. Detained at Souris, Prince Edward Island, October 4, 1886, for alleged violation of customs law. Fined \$400, and released on payment; \$375 of the fine remitted.
38. *Laura Sayward*, Gloucester, Mass.; Medeo Rose, master. Refused privilege of landing to buy provisions at Shelburne, Nova Scotia, October 5, 1886.
39. *Marion Grimes*, Gloucester, Mass. Detained at Shelburne, Nova Scotia, October 9, for violation of port laws in failing to report at custom-house on entering. Fined \$400. Money paid under protest and vessel released. Fine remitted December 4, 1886.
40. *Jennie Seaverns*, Gloucester, Mass.; Joseph Tupper, master. Refused privilege of landing, and vessel placed under guard at Liverpool, Nova Scotia, October 20, 1886.
41. *Flying Scud*, Gloucester, Mass. Detained for alleged violation of customs laws at Halifax, November 1, or about that time. Released November 16, 1886.
42. *Sarah H. Prior*, Boston, Mass. Refused the restoration of a lost seine, which was found by a Canadian schooner, December 1886.
43. *Boat* (name unknown). Stephen R. Balcom, master, Eastport, Me. Warned off at St. Andrews, New Brunswick, July 9, 1886, with others.
44. *Two small boats* (unnamed); Charles Smith, Pembroke, Me., master. Seized at East Quaddy, New Brunswick, September 1, 1886, for alleged violation of customs laws.

45. *Druid* (foreign built). Gloucester, Mass. Seized, warned off, or molested otherwise at some time prior to September 6, 1886.
46. *Abbey A. Snow*. Injury to this vessel has not been reported to the Department of State.
47. *Eliza A. Thomas*. Injury to this vessel has not been reported to the Department of State.
48. *Wide-Awake*. Eastport, Me.; William Foley, master. Fined at L'Etang, New Brunswick, \$75 for taking away fish without getting a clearance; again November 13, 1886, at St. George, New Brunswick, fined \$20 for similar offense. In both cases he was proceeding to obtain clearances.

U. S. COMMISSION OF FISH AND FISHERIES,

Washington, D. C., February 5, 1887.

SIR: I forward herewith, for your information, a copy of a communication from Mr. R. Edward Earll, in charge of the Division of Fisheries of this Commission, accompanied by a list of New England fishing vessels which have been inconvenienced in their fishing operations by the Canadian authorities during the past season; these being in addition to the vessels mentioned in the revised list of vessels involved in the controversy with the Canadian authorities, furnished to your committee on January 26 by the Secretary of State.

The papers containing the statements were received from the owners, masters, or agents of the vessels concerned, and, though not accompanied by affidavits, are believed to be correct.

Very respectfully, yours,

SPENCER F. BAIRD,

Commissioner.

Hon. GEORGE F. EDMUNDS,

Chairman Committee on Foreign Relations, United States Senate.

U. S. COMMISSION OF FISH AND FISHERIES,

Washington, D. C., February 5, 1887.

SIR: Sometime since, at your request, I mailed circulars to owners or agents of all New England vessels employed in the food-fish fisheries. These called for full statistics of the vessels' operations during the year 1886, and, in addition, for statements of any inconveniences to which the vessels had been subjected by the recent action of the Canadian Government in denying to American fishing vessels the right to buy bait, ice, or other supplies in its ports, or in placing unusual restrictions on the use of its harbors for shelter.

A very large percentage of the replies to these circulars have already been received, and an examination of same shows that, in addition to the vessels mentioned in the revised list transmitted by the Secretary of State to the Committee on Foreign Relations of the United States Senate on January 26, 1887, sixty-eight other New England fishing vessels have been subjected to treatment which neither the treaty of 1818 nor the principles of international law would seem to warrant.

I inclose for your consideration a list of these vessels, together with a brief abstract of the statements of the owners or masters regarding the treatment received. The statements were not accompanied by affidavits, but are believed to be entirely reliable. The name and address of the informant are given in each instance.

Very respectfully, yours,

R. EDWARD EARLE,
In charge Division of Fisheries.

Prof. SPENCER F. BAIRD,
U. S. Commissioner of Fish and Fisheries.

PARTIAL LIST OF VESSELS INVOLVED IN THE FISHERIES CONTROVERSY WITH THE
CANADIAN AUTHORITIES, FROM INFORMATION FURNISHED TO THE UNITED STATES
COMMISSIONER OF FISH AND FISHERIES.

[Supplementing a list transmitted to the Committee on Foreign Relations, United States Senate, by the Secretary of State, January 20, 1887.]

1. *Eliza A. Thomas* (schooner). Portland, Me.; E. S. Bibbs, master. Wrecked on Nova Scotia shore, and unable to obtain assistance. Crew not permitted to land or to save anything until permission was received from captain of cutter. Canadian officials placed guard over fish saved, and everything saved from wreck narrowly escaped confiscation. (From statements of C. D. Thomas, owner, Portland, Me.)
2. *Christina Ellsworth* (schooner). Eastport, Me.; James Ellsworth, master. Entered Port Hastings, Cape Breton, for wood; anchored at 10 o'clock, and reported at custom-house. At 2 o'clock was boarded by captain of cutter Hector and ordered to sea, being forced to leave without wood. In every harbor entered was refused privilege of buying anything. Anchored under lee of land in no harbor, but was compelled to enter at custom-house. In no two harbors were the fees alike. (From statements of James Ellsworth, owner and master, Eastport, Me.)
3. *Mary E. Whorf* (schooner). Wellfleet, Mass.; Simon Berrio, master. In July, 1886, lost seine off North Cape, Prince Edward Island, and not allowed to make any repairs on shore, causing a broken voyage and a long delay. Ran short of provisions, and being denied privilege of buying any on land, had to obtain from another American vessel. (From statements of Freeman A. Snow, owner, Wellfleet, Mass.)
4. *Stowell Sherman* (schooner). Provincetown, Mass.; S. F. Hatch, master. Not allowed to purchase necessary supplies, and obliged to report at custom-houses, situated at distant and inconvenient places; ordered out of harbors in stress of weather, namely, out of Cascumpec harbor, Prince Edward Island, nineteen hours after entry, and out of Malpeque harbor, Prince Edward Island, fifteen hours after entry, wind then blowing too hard to admit of fishing. Returned home with broken trip. (From statements of Samuel T. Hatch, owner and master, Provincetown, Mass.)

5. *Walter L. Rich* (schooner). Wellfleet, Mass.; Obadiah Rich, master. Ordered out of Malpeque, P. E. I., in unsuitable weather for fishing, having been in harbor only twelve hours. Denied right to purchase provisions. Forced to enter at custom-house at Port Hawkesbury, C. B., on Sunday, collector fearing that vessel would leave before Monday and he would thereby lose his fee. (From statements of Obadiah Rich, owner and master, Wellfleet, Mass.)
6. *Bertha D. Nickerson* (schooner). Booth Bay, Me.; N. E. Nickerson, master. Occasioned considerable expense by being denied Canadian harbors to procure crew, and detained in spring while waiting for men to come from Nova Scotia. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)
7. *Newell B. Hayes* (schooner). Wellfleet, Mass.; Thomas C. Kennedy, master. Refused privilege of buying provisions in ports on Bay Saint Lawrence, and in consequence obliged to leave for home with half a cargo. Made harbor at Shelburne, Nova Scotia, in face of storm, at 5 p. m., and master immediately started for custom-house, 5 miles distant, meeting captain of cutter *Terror* on way, to whom he explained errand. On returning, found two armed men from cutter on his vessel. At 7 o'clock next morning was ordered to sea, but refused to go in the heavy fog. At 9 o'clock the fog lifted slightly, and, though the barometer was very low and a storm imminent, vessel was forced to leave. Soon met the heavy gale, which split sails, causing considerable damage. Captain of *Terror* denied claim to right of remaining in harbor twenty-four hours. (From statements of T. C. Kennedy, part owner and master, Wellfleet, Mass.)
8. *Helen F. Tredick* (schooner), Cape Porpoise, Me.; R. J. Nunan, master. July 20 1886, entered Port Latour, N. S., for shelter and water. Was ordered immediately to sea. (From statements of R. J. Nunan, owner and master, Cape Porpoise, Me.)
9. *Nelle M. Snow* (schooner), Wellfleet, Mass.; A. E. Snow, master. Was not allowed to purchase provisions in any Canadian ports, or to refit or land and ship fish, consequently obliged to leave for home with broken trip. Not permitted to remain in ports longer than local Canadian officials saw fit. (From statements of J. C. Young, owner, Wellfleet, Mass.)
10. *Gertrude Summers* (schooner), Wellfleet, Mass.; N. S. Snow, master. Refused privilege of purchasing provisions, which resulted in injury to voyage. Found harbor regulations uncertain. Sometimes could remain in port twenty-four hours, again was ordered out in three hours. (From statements of N. S. Snow, owner and master, Wellfleet, Mass.)
11. *Charles R. Washington* (schooner), Wellfleet, Mass.; Jesse S. Snow, master. Master was informed by collector at Ship Harbor, C. B., that if he bought provisions, even if actually necessary, he would be subject to a fine of \$400 for each offense. Refused permission by the collector at Souris, P. E. I., to buy provisions, and was compelled to return home September 10, before close of fishing season. Was obliged to report at custom-house every time he entered a harbor, even if only for shelter. Found no regularity in the amount of fees demanded, this being apparently at the option of the collector. (From statements of Jesse S. Snow, owner and master, Wellfleet, Mass.)

12. *John M. Ball* (schooner), Provincetown, Mass.; N. W. Freeman, master. Driven out of Gulf of St. Lawrence to avoid fine of \$400 for landing two men in the port of Malpeque, P. E. I. Was denied all supplies, except wood and water, in same port. (From statements of N. W. Freeman, owner and master, Provincetown, Mass.)
13. *Zephyr* (schooner), Eastport, Me.; Warren Pulk, master. Cleared from Eastport, May 31, 1886, under register for West Isles, N. B., to buy herring. Collector refused to enter vessel, telling captain that if he bought fish, which were plenty at the time, the vessel would be seized. Returned to Eastport, lying about a week, which resulted in considerable loss to owner and crew. (From statements of Guilford Mitchell, owner, Eastport, Me.)
14. *Abdon Keene* (schooner), Bremen, Me.; William C. Keene, master. Was not allowed to ship or land crew at Nova Scotia ports, and owner had to pay for their transportation to Maine. (From statements of William C. Keene, owner and master, Bremen, Me.)
15. *William Keene* (schooner), Portland, Me.; Daniel Kimball, master. Not allowed to ship a man or to send a man ashore except for water, at Liverpool, N. S., and ordered to sea as soon as water was obtained. (From statements of Henry Trefethen, owner, Peak's Island, Me.)
16. *John Nye* (schooner), Swan's Island, Me.; W. L. Joyce, master. After paying entry fees and harbor dues was not allowed to buy provisions at Malpeque, P. E. I., and had to return home for same, making a broken trip. (From statements of W. L. Joyce, owner and master, Atlantic, Me.)
17. *Asa H. Perrere* (schooner), Wellfleet, Mass.; A. B. Gore, master. Entered harbor for shelter; ordered out after 24 hours. Denied right to purchase food. (From statements of S. W. Kemp, agent, Wellfleet, Mass.)
18. *Nathan Cleaves* (schooner). Wellfleet, Mass.; P. E. Hickman, master. Ran short of provisions, and, not being permitted to buy, left for home with a broken voyage. Customs officer at Port Mulgrave, Nova Scotia, would allow purchase of provisions for homeward passage, but not to continue fishing. (From statements of Parker E. Hickman, owner and master, Wellfleet, Mass.)
19. *Frank G. Rich* (schooner). Wellfleet, Mass.; Charles A. Gorham, master. Not permitted to buy provisions or to lay in Canadian ports over twenty-four hours. (From statements of Charles A. Gorham, owner and master, Wellfleet, Mass.)
20. *Emma O. Curtis* (schooner). Provincetown, Mass.; Elisha Rich, master. Not allowed to purchase provisions, and therefore obliged to return home. (From statements of Elisha Rich, owner and master, Provincetown, Mass.)
21. *Pleiades* (schooner). Wellfleet, Mass.; F. W. Snow, master. Driven from harbor within twenty-four hours after entering. Not allowed to ship or discharge men under penalty of \$400. (From statements of F. W. Snow, owner and master, Wellfleet, Mass.)
22. *Charles F. Atwood* (schooner). Wellfleet, Mass.; Michael Burrows, master. Captain was not permitted to refit vessel or to buy supplies, and when out of food had to return home. Found Canadians disposed to harass him and put him to many inconveniences. Not allowed to land seine on Canadian shore for purpose of repairing same. (From statements of Michael Burrows, owner and master, Wellfleet, Mass.)

23. *Gertie May* (schooner). Portland, Me.; I. Doughty, master. Not allowed, though provided with permit to touch and trade, to purchase fresh bait in Nova Scotia, and driven from harbors. (From statements of Charles F. Guptill, owner, Portland, Me.)
24. *Margaret S. Smith* (schooner). Portland, Me.; Lincoln W. Jewett, master. Twice compelled to return home from Bay of St. Lawrence with broken trip, not being able to secure provisions to continue fishing. Incurred many petty inconveniences in regard to customs regulations. (From statements of A. M. Smith, owner, Portland, Me.)
25. *Elsie M. Smith* (schooner). Portland, Me.; Enoch Bulger, master. Came home with half fare, not being able to get provisions to continue fishing. Lost seine in a heavy gale rather than be annoyed by customs regulations when seeking shelter. (From statements of A. M. Smith, Portland, Me.)
26. *Fannie A. Spilling* (schooner). Portland, Me.; Caleb Parris, master. Subject to many annoyances, and obliged to return home with a half fare, not being able to procure provisions. (From statements of A. M. Smith, owner, Portland, Me.)
27. *Carleton Bell* (schooner). Booth Bay, Me.; Seth W. Eldridge, master. Occasioned considerable expense by being denied right to procure crew in Canadian harbors, and detained in spring while waiting for men to come from Nova Scotia. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)
28. *Abbie M. Deering* (schooner). Portland, Me.; Emory Gott, master. Not being able to procure provisions, obliged to return home with a third of a fare of mackerel. (From statements of A. M. Smith, owner, Portland, Me.)
29. *Cora Louisa* (schooner). Booth Bay, Me.; Obed Harris, master. Could get no provisions in Canadian ports and had to return home before getting full fare of fish. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)
30. *Eben Dale* (schooner). North Haven, Me.; R. G. Babbidge, master. Not permitted to buy bait, ice, or to trade in any way. Driven out of harbors, and unreasonable restrictions whenever near the land. (From statements of R. G. Babbidge, owner and master, Pulpit Harbor, Me.)
31. *Charles Haskell* (schooner). North Haven, Me.; Daniel Thurston, master. Obligated to leave Gulf of St. Lawrence at considerable loss, not being allowed to buy provisions. (From statements of C. S. Staples, owner, North Haven, Me.)
32. *Willie Parkman* (schooner). North Haven, Me.; William H. Banks, master. Unable to get supplies while in Gulf of St. Lawrence, which necessitated returning home at great loss, with a broken voyage. (From statements of William H. Banks, owner and master, North Haven, Me.)
33. *D. D. Geyer* (schooner). Portland, Me.; John K. Craig, master. Being refused privilege of touching at a Nova Scotia port to take on resident crew already engaged, owner was obliged to provide passage for men to Portland, at considerable cost, causing great loss of time. (From statements of F. H. Jordan, owner, Portland, Me.)

34. *Good Templar* (schooner). Portland, Me.; Elias Tarlton, master. Touched at La Have, Nova Scotia, to take on crew already engaged, but was refused privilege and ordered to proceed. The men being indispensable to voyage, had them delivered on board outside of three-limit by a Nova Scotia boat. (From statements of Henry Trefethen, owner, Peak's Island, Maine.)
35. *Eddie Davidson* (schooner). Wellfleet, Mass.; John D. Snow, master. June 12, 1886, touched at Cape Island, Nova Scotia, but was not permitted to take on part of crew. Boarded by customs officer and ordered to sail within twenty-four hours. Not allowed to buy food in ports on Gulf of St. Lawrence. (From statements of John D. Snow, owner and master, Wellfleet, Mass.)
36. *Alice P. Higgins* (schooner). Wellfleet, Mass.; Alvin W. Cobb, master. Driven from harbors twice in stress of weather. (From statements of Alvin W. Cobb, master, Wellfleet, Mass.)
37. *Cynosure* (schooner). Booth Bay, Me.; L. Rush, master. Was obliged to return home before securing a full cargo, not being permitted to purchase provisions in Nova Scotia. (From statements of S. Nickerson & Sons, owners, Booth Bay, Me.)
38. *Naiad* (schooner). Lubec, Me.; Walter Kennedy, master. Presented frontier license (heretofore acceptable) on arriving at St. George, N. B., but collector would not recognize same; was compelled to return to Eastport and clear under register before being allowed to purchase herring, thus losing one trip. (From statements of Walter Kennedy, master, Lubec, Me.)
39. *Louisa A. Grout* (schooner). Provincetown, Mass.; Joseph Hatch, jr., master. Took permit to touch and trade; arrived at St. Peter's, Cape Breton, in afternoon of May 19, 1886; entered and cleared according to law; was obliged to take inexperienced men at their own prices to complete fishing crew, to get to sea before the arrival of a seizing officer who had started from Straits of Canoe at 5 o'clock same afternoon in search of vessel, having been advised by telegraph of the shipping of men. (From statements of Joseph Hatch, jr., owner and master, Provincetown, Mass.)
40. *Lottie E. Hopkins* (schooner). Vinal Haven, Me.; Emery J. Hopkins, master. Refused permission to buy any article of food in Canadian ports. Obtained shelter in harbors only by entering at custom-house. (From statement of Emery J. Hopkins, owner and master, North Haven, Me.)
41. *Florine F. Nickerson* (schooner). Chatham, Mass.; Nathaniel E. Eldridge, master. Engaged fishermen for vessel at Liverpool, Nova Scotia, but action of Canadian Government necessitated the paying of their transportation to the United States and loss of time to vessel while awaiting their arrival; otherwise would have called for them on way to fishing-grounds. Returning, touched at Liverpool, but immediately on anchoring, Canadian officials came aboard and refused permission for men to go ashore. Captain at once signified his intention of immediately proceeding on passage, but officer prevented his departure until he had reported at custom-house, vessel being thereby detained two days. (From statement of Kendrick & Bense, owners, South Harwich, Mass.)

42. *B. B. B.* (sloop), Eastport, Me.; George W. Copp, master. Obligated to discontinue business of buying sardine herring in New Brunswick ports for Eastport canneries, as local customs regulations were, during the season of 1886, made so exacting that it was impossible to comply with them without risk of the fish becoming stale and spoiled by detention. (From statements of George W. Copp, master, Eastport, Me.)
43. *Sir Knight* (schooner). Southport, Me.; Mark Rand, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing-grounds. (From statements of William T. Maddocks, owner, Southport, Me.)
44. *Uncle Joe* (schooner), Southport, Me.; J. W. Pierce, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing-grounds. (From statements of William T. Maddocks, owner, Southport, Me.)
45. *Willie G.* (schooner). Southport, Me.; Albert F. Orne, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing-grounds. (From statements of William T. Maddocks, owner, Southport, Me.)
46. *Lady Elgin* (schooner). Southport, Me.; George W. Pierce, master. Compelled to pay transportation for crew from Nova Scotia to Maine, the vessel not being allowed to call at Nova Scotia ports for them on her way to the fishing grounds. (From statements of William T. Maddocks, owner, Southport, Me.)
47. *John H. Kennedy* (schooner). Portland, Me.; David Dougherty, master. Called at a Nova Scotia port for bait, but left without obtaining same, fearing seizure and fine, returning home with a broken voyage. At a Newfoundland port was charged \$16 light-house dues, giving draft on owners for same, which, being excessive, they refused to pay. (From statements of E. G. Willard, owner, Portland, Me.)
48. *Ripley Ropes* (schooner). Southport, Me.; C. E. Hare, master. Vessel ready to sail when telegram from authorities at Ottawa refused permission to touch at Canadian ports to ship men; consequently obliged to pay for their transportation to Maine, and vessel detained while awaiting their arrival. (From statements of Freeman Orne & Son, owners, Southport, Me.)
49. *Jennie Armstrong* (schooner). Southport, Me.; A. O. Webber, master. Vessel ready to sail when telegram from authorities at Ottawa refused permission to touch at Canadian ports to ship men; consequently obliged to pay for their transportation to Maine, and vessel detained while awaiting their arrival. (From statements of Freeman Orne & Son, owners, Southport, Me.)
50. *Vanguard* (schooner). Southport, Me.; C. C. Dyer, master. Vessel ready to sail when telegram from authorities refused permission to touch at Canadian ports to ship men; consequently obliged to pay for their transportation to Maine, and vessel detained while awaiting their arrival. (From statements of Freeman Orne & Son, owners, Southport, Me.)
51. *Electric Flash* (schooner). North Haven, Me.; Aaron Smith, master. Unable to obtain supplies in Canadian ports and obliged to return home before obtaining full cargo. (From statements of Aaron Smith, master and agent, North Haven, Me.)

52. *Daniel Simmons* (schooner). Swan's Island, Me.; John A. Gott, master. Compelled to go without necessary outfit while fishing in Gulf of St. Lawrence. (From statements of M. Stimpson, owner, Swan's Island, Me.)
53. *Grover Cleveland* (schooner). Boston, Mass.; George Lakeman, master. Compelled to return home with only partial fare of mackerel, being refused supplies in Canadian ports. (From statements of B. F. De Butts, owner, Boston, Mass.)
54. *Andrew Burnham* (schooner). Boston, Mass.; Nathan F. Blake, master. Not allowed to buy provisions or to land and ship fish to Boston, thereby losing valuable time for fishing. (From statements of B. F. De Butts, owner, Boston, Mass.)
55. *Harry G. French* (schooner). Gloucester, Mass.; John Chisholm, master. Refused permission to purchase any provisions or to land cargo for shipment to the United States. (From statements of John Chisholm, owner and master, Gloucester, Mass.)
56. *Col. J. H. French* (schooner). Gloucester, Mass.; William Harris, master. Was refused permission to purchase any supplies, or to forward fish to the home port by steamer, causing much loss of time and money. (From statements of John Chisholm, owner, Gloucester, Mass.)
57. *W. H. Wellington* (schooner). Gloucester, Mass.; D. S. Nickerson, master. Was refused permission to purchase any supplies, or to forward fish to the home port by steamer, causing much loss of time and money. (From statements of John Chisholm, owner, Gloucester, Mass.)
58. *Ralph Hodgdon* (schooner). Gloucester, Mass.; Thomas F. Hodgdon, master. Was refused permission to purchase any supplies, or to forward fish to the home port by steamer, causing much loss of time and money. (From statements of John Chisholm, owner, Gloucester, Mass.)
59. *Hattie Evelyn* (schooner). Gloucester, Mass.; James A. Cromwell, master. Not allowed to buy any provisions in any provincial ports, and thereby compelled to return home during the fishing season, causing broken voyage and great loss. (From statements of James A. Cromwell, owner and master, Gloucester, Mass.)
60. *Emma W. Brown* (schooner). Gloucester, Mass.; John McFarland, master. Was forbidden buying any provisions at provincial ports, and thereby lost three weeks' time, and was compelled to return home with only part of cargo. (From statements of John McFarland, master, Gloucester, Mass.)
61. *Mary H. Thomas* (schooner). Gloucester, Mass.; Henry B. Thomas, master. Prohibited from buying provisions, and, in consequence, had to return home before close of fishing season. (From statements of Henry B. Thomas, owner and master, Gloucester, Mass.)
62. *Hattie B. West* (schooner). Gloucester, Mass.; C. H. Jackman, master. Prevented from buying provisions to enable vessel to continue fishing. Two of crew deserted in a Canadian port, and captain went ashore to report at custom-house and to secure return of men. Was delayed by customs officer not being at his post, and ordered to sea by first officer of cutter *Howlett* before having an opportunity of reporting at custom-house or of finishing business. Had to return

and report on same day or be subject to fine. Prevented from shipping men at same place. At Port Hawkesbury, Nova Scotia, while on homeward passage, not allowed to take on board crew of seized American fishing schooner *Moro Castle*, who desired to return home. (From statements of C. H. Jackman, master, Gloucester, Mass.)

63. *Ethel Maud* (schooner). Gloucester, Mass.; George H. Martin, master. Provided with a United States permit to touch and trade, entered Tignish, Prince Edward Island, to purchase salt and barrels. Was prohibited from buying anything. Collector was offered permit, but declared it to be worthless, and would not examine it. Vessel obliged to return home for articles mentioned. On second trip was not permitted to get any food. (From statements of George H. Martin, owner and master, East Gloucester, Mass.)
64. *John W. Bray* (schooner). Gloucester, Mass.; George McLean, master. "On account of extreme prohibitory measures of the Canadian Government in refusing shelter, supplies, and other conveniences, was obliged to abandon her voyage and come home without fish." (From statements of John F. Wonson & Co., owners, Gloucester, Mass.)
65. *Henry W. Lonsfellow* (schooner). Gloucester, Mass.; W. W. King, master. Obligated to leave the Gulf of St. Lawrence with only 62 barrels of mackerel, on account of restrictions imposed by Canadian Government in preventing captain from procuring necessary supplies to continue fishing. (From statements of John F. Wonson & Co., owners, Gloucester, Mass.)
66. *Rushlight* (schooner). Gloucester, Mass.; James L. Kenney, master. Compelled to leave Gulf of St. Lawrence with only 90 barrels of mackerel, because of restrictions imposed by Canadian Government in prohibiting captain from purchasing supplies needed to continue fishing. (From statements of John F. Wonson & Co., owners, Gloucester, Mass.)
67. *Belle Franklin* (schooner). Gloucester, Mass.; Henry D. Kendrick, master. Obligated to leave Gulf of St. Lawrence with 156 barrels of mackerel, on account of restrictions imposed by Canadian Government in denying to captain the right to procure necessary supplies to continue fishing. (From statements of John F. Wonson & Co., owners, Gloucester, Mass.)
68. *Neponset* (schooner). Boston, Mass.; E. S. Frye, master. August 27, 1886, anchored in Port Hawkesbury, C. B., and immediately reported at custom-house. Being short of provisions, master asked collector for permission to buy, but was twice refused. The master, expressing his intention of seeing the United States consul at Port Hastings, C. B., 3 miles distant, the customs officer forbade him landing at that port to see the consul. He did so, however, saw the consul, but could get no aid, the consul stating that if provisions were furnished the vessel would be seized. Master being sick and wishing to return home by rail, at the suggestion of the consul he landed secretly and traveled through the woods to the station, 3 miles distant. (From statements of E. S. Frye, owner and master, Boston, Mass.)

In 1886 700 vessels were boarded, and 1,362 in 1887, to investigate their conduct, of which 30 were brought to the attention of the British Government.

These lists comprise, in all, nearly 400 vessels that have been involved in seizures and other interferences growing out of disputed constructions of the treaty of 1818.

That so many cases have arisen out of this conflict of opinion is, in part, fairly attributable to an aggressive temper on the part of the Canadians, which has not been successfully restrained by the Government of Great Britain, and to an obstinate adherence to the letter of the treaty, to the sacrifice of its spirit and to the prejudice of the "liberties" and "privileges" secured by its terms to American fishermen, as our Government understands the matter.

The treaty had reference to extensive lines of sea-coast upon which the bays, harbors, and creeks were as well known by name and location in 1818 as they are now, but they were not exactly described in that instrument.

It can not be assumed, at least in our diplomacy, that it is irrational or uncandid for the British Government to contend that the entrance of these places, so well known, was intended to designate a base-line from which to measure the 3-mile limit, within which we forever renounced the right to take or cure or dry fish.

Our construction has been that we did not renounce these "liberties" in the bays, harbors, and creeks, except within 3 miles of the coasts thereof, while the British contention has been that the word "coasts" in the treaty relates only to the open sea-coasts, and not to the coasts of bays, harbors, and creeks that are claimed and controlled by the provincial governments as territorial waters.

The British contention is also fortified by the argument, as they insist, that, in the proviso to article 1 of the treaty, our right to enter for shelter, wood, water, and repairs, is limited to "bays or harbors" and does not extend to "creeks" or to "coasts," and that these were not opened to our right of entry, because of the difficulty of enforcing the "restrictions" upon the use of these privileges, to which we gave our consent in the treaty, on the coasts and creeks, at places remote from their ports.

It has been the duty of our diplomatists, forced upon them by the importance of our interests, to endeavor to overcome these contentions of the British Government, and to insist upon a more liberal construction of the treaty.

The task has not been an easy one, and the progress we have made is scarcely discernible; for no admitted change in British opinion seems

to have been accomplished in respect of the exclusion, from our treaty rights of fishery, of the creeks, bays, and harbors whose names, limits, and location were known, and were recognized by their laws as territorial waters in 1818, except in reference to the Bay of Fundy.

In 1854 and in 1871 we submerged these questions beneath others of great importance, and paid heavily, in reciprocal tariff arrangements in one case, and in money in the other instance, for the security and protection of our fishermen against the British head-land theory, as they claimed it, in territorial waters, and for the right of inshore fishing.

On the other branch of the subject, relating to the promulgation and enforcement of "such restrictions as may be necessary to prevent * * * abusing the privileges * * * reserved to" American fishermen, the cases have been more numerous, the discussions more heated, the interferences with our fishermen and their vessels, and with other vessels, more annoying and damaging, than those that have arisen under the head-land theory.

In most of these cases the provincial courts, or the privy council of the local governments, have made decisions, or statements, expounding their laws, both provincial and imperial, and insisting upon their right and jurisdiction, under the treaty, to do all that has been done by them to our fishermen, except in the affair of Fortune Bay.

What is sometimes termed the reciprocity of 1830, by which the interdiction on commercial intercourse between the North American British Provinces and the United States was relieved, and commercial intercourse was established on a liberal footing, gave to our merchant ships extensive privileges that the treaty of 1818, under the British construction, denied to our fishing vessels.

This so-called reciprocity was not established by positive law in either country; but, under the proclamation of President Jackson, authorized by law, and under the orders of the Privy Council of Great Britain, the liberties of commerce were mutually accorded to the merchant ships of each country in the ports of the other. We will hereafter refer more particularly to that arrangement.

Many of our fishing vessels being licensed, under our laws, to touch and trade in foreign ports, our Government has since claimed for them in Canadian ports the hospitality accorded to our other merchant vessels and all the liberties that they enjoy.

This reasonable claim was based upon the new conditions of our commercial intercourse with Canada as established by "the reciprocity of 1830."

It was met with the declaration that American fishermen and their vessels had only the rights, in Canadian waters and ports, that are expressly reserved to them under the treaty of 1818; and that all other rights are denied to them by that treaty; and the further insistence that the United States can confer no other rights upon them, in those waters, than such as the treaty gives them in their character as fishermen.

This question has led to serious disagreement and has been unavoidably mixed up with the question of the proper construction of the treaty of 1818.

This blending of these subjects has resulted, in part, from the enlarged privileges secured to our fishermen in the treaties of 1854 and 1871, and from the British laws and regulations, under which no express distinction is made between fishing vessels and purely commercial vessels as to entrance and clearance; port and harbor dues; pilotage and tonnage dues; the right to demand manifests and to inspect cargoes.

They employ their regulations, prescribed for commercial vessels, to prevent fishing vessels from having shelter for more than twenty-four hours in a bay or harbor; or from obtaining water or wood, or making repairs, unless they have been duly entered in the custom-house and have conformed to all the regulations that apply to merchant vessels.

The denial of every commercial privilege to our fishermen, even to the supply of wants that humanity demands, while imposing upon them every "restriction" that merchant vessels were required to endure, naturally excited the indignation of our people.

The contrast between the treatment, in these respects, of merchant vessels of all nations (including those of the United States) and our fishing vessels was painful and unjust, as it was unnecessary, and placed the men engaged in an honorable and highly useful pursuit under the ban of unjust and unfriendly discrimination, and branded them as persons against whom there was a general and recognized suspicion of bad character or of unworthy designs.

During the interval between 1818 and 1830 the treaty of 1818 furnished the only rule, equitable or legal, for the admeasurement of the rights of our fishermen.

Since 1830, except when the treaties of 1854 and 1871 were in force, the British Government, instead of relaxing the "restrictions" upon our fishermen, has increased them, and has been very alert in confining them to the strict letter of the treaty of 1818, whenever that has operated, as to their fishing and other liberties and privileges.

II.

WHETHER IT IS OUR WISEST AND SAFEST POLICY TO RESORT TO THE LAWS OF NATIONS, ENFORCED BY ALL MEASURES THAT MAY BE NECESSARY, OR TO TREATY ARRANGEMENTS, FOR THE REGULATION, GENERALLY, OF OUR FISHING RIGHTS?

It is quite clear that, until we are free from the obligations of the treaty of 1818, they are a part of our supreme law, which no department of our own Government can violate without violating our Constitution.

As the treaty is perpetual in the renunciation of our right of common fishery, partitioned to us as an appanage of the country whose independence we established, we can not, by any means short of a successful war, re-instate the United States, by our own act, in the enjoyment of the right that was so renounced.

We can free ourselves of any embarrassment arising out of the treaty of 1818, as to our fishermen, licensed to touch and trade, by repealing it, but nobody seems to desire such a course of action, or to court the situation in which it would place both countries.

The struggle, in such an event, would be at once renewed under retaliatory laws (if this treaty is rejected); but every movement in such a policy would be very costly to the people of both countries, and, as a probable result, would eventuate in war.

So, we must live under the treaty and be constantly embroiled with the British Government as to its proper interpretation; or we must reform that interpretation by a fair and just agreement with that Government; or we must repeal or abandon it, and then rely upon retaliation to redress our wrongs.

The demand of our fishermen for an enlargement of their commercial privileges, to correspond with those of our merchant vessels, and for a more liberal hospitality in their bays, is the pith and essence of our demand for a more liberal interpretation of the treaty of 1818.

This demand has to a great degree grown out of the changed conditions, both of fishing ventures and commercial intercourse, with the British provinces since 1830.

It was not considered in 1818, but it can not be denied consideration now, in view of these changed conditions.

It is insisted by some that the treaty of 1818 gives no commercial rights to our fishing vessels; that it relates only to fishing rights and to some incidental privileges of hospitality accorded to our fishermen;

that there is no need to amend the treaty so as to secure them commercial rights; and that these should be secured, and would be, through our legislative powers of retaliation upon the commerce of the British possessions.

If we infuse into that treaty the substance of this demand, it must be done by an agreement, in the nature of an amendment, that furnishes some reciprocal concession to the people of the British possessions concerned in the fisheries; otherwise we will fail to gain their consent to it.

If we stand upon that treaty without amendment, as a fishing treaty, insisting that it has nothing to do with the commercial privileges of our fishing vessels, and that it leaves us free to demand for them the same commercial privileges that we accord to Canadian fishermen, we place this demand alone upon the ground of international comity, which is in no sense a substantial right, and is outside of all treaty agreements.

We would then have the treaty prohibition against our fishing vessels entering Canadian bays and harbors for "any other purpose whatever" than to buy wood, obtain water, make repairs, and find shelter; while their commercial privileges would entitle them to enter the ports of these bays and harbors for any lawful commercial purpose; and this would result from our act in giving them, under our laws, the double character of fishermen and merchantmen.

The British Government treats this proposition as a mere attempt to evade the treaty of 1818, and, in that view, they insist upon its rigid enforcement. They quote the restrictions of the treaty of 1818 as being obligatory upon the United States, and insist that we can not change the character of a vessel from a fisherman to a merchantman by giving to such vessel any form of license, enrollment, registry, or sea papers, in addition to such as place it in the class of a fishing vessel.

However illiberal such a contention may be, they certainly claim the right, under the treaty, and outside of it as well, to deny all entrance of our fishing vessels to their bays and harbors, except in their character as fishermen. As vessels of commerce, the British Government claims that they enter the ports by comity alone. As fishing vessels, they admit that they enter the bays and harbors by right, under the treaty, but only for the purposes to which the treaty of 1818 restricts them.

We do not intend to lay down what we may believe to be the limits of jurisdiction over adjacent seas that are said to be secured to the Gov-

ernments owning the coasts by the laws of nations. Chancellor Kent, Mr. Jefferson, Mr. Madison, and Mr. Seward, and many other great lawyers and statesmen of our country have advocated theories on this subject quite at variance with the 3-mile boundary of our right of jurisdiction seaward from the coast. This question needs to be handled with great circumspection. This is a very important matter.

A vast extent of the coast of the Pacific, reaching to the arctic circle, and destined to become a more important fishing-ground than the Atlantic coasts, must be affected by the principles of international law which the United States shall assert as defining the limits seaward from the coasts of our exclusive right to fish for seals and sea-otters, whales, and the many varieties of food-fishes that swarm along the coasts of Behring Sea and Straits. We might find, in that quarter, a very inconvenient application of the doctrine that, by the law of nations, the three-mile limit of the exclusive right of fishery is to follow and be measured from the sinuosities of the coasts of the bays, creeks, and harbors that exceed six miles in width at the entrance; and an equally inconvenient application of our claim for full commercial privileges in Canadian ports for our fishermen, when applied to British Columbian fishermen in our Pacific ports, which are nearer to them than to our fisheries in Alaska.

No allusion is made in the treaty of 1818 to the laws of nations as furnishing canons for its interpretation; and we infer that its meaning is to be gathered alone from its context and the circumstances that attended its adoption.

The undersigned believe that the interpretation of that treaty, which has led to its reformation in the treaty now before the Senate, is far in advance of anything that any American diplomat has officially demanded of the British Government, and will lead to a full and amicable adjustment of all troubles of the sort that have heretofore arisen; and that it will open the way for a liberal and neighborly agreement as to such differences as may hereafter arise, both on the Atlantic and Pacific coasts.

In this interpretation and reformation of our existing treaty, the United States make no committals as to the exclusive rights of fishing under the laws of nations that may affect our interests in the Pacific and the Gulf of Mexico in the future; nor do they place the delimitations of the fishing-grounds, or the alleged commercial rights of our fishermen, upon any principle of the international law that may be quoted against us at Victoria (within a very short distance of our northern

border), or along the extensive sea-coast between Puget Sound and Alaska, our great Pacific fishery.

The undersigned prefer the certainty which this treaty has secured as to our specific rights in the fisheries of the Atlantic coasts of North America to the uncertainty of the international law as to all those questions, which will leave in bitter dispute our rights and liberties both on the Atlantic and Pacific coasts, bays, harbors, and creeks, and in Behring's Sea and Straits.

The undersigned believe that the treaty now under consideration affords a better foundation for both our fishing and commercial rights than any that can be stated as resting alone upon international law, or upon comity secured by retaliatory laws and maintained by the fluctuating interests of commerce, that are very unstable.

Those who assert that it is not the duty, and is scarcely the right, of the President to resort to negotiations, in preference to the retaliation provided for in existing laws, in order to secure commercial rights to fishermen in Canadian ports, are not willing that their *privileges* shall be enlarged and converted into *rights* secured by treaty. They prefer the chances of greater success through legislation that will intimidate the British Government or greatly embarrass British commerce. This seems to indicate that they rely for success more upon British cupidity and the fear that Government has of the consequences of war, than upon its sense of justice, or its good faith in keeping treaty obligations.

Whether or not this may be true, it is very obvious, as the undersigned believe, that the advantages we are supposed to enjoy under such circumstances would be quite as available for the increase of our commercial privileges by retaliatory laws, after this treaty is ratified, as they are at present. Our good faith is no more pledged in this treaty than it is in the treaty of 1818.

This treaty does not bind us to advance no claim hereafter to increased commercial privileges in favor of our fishermen. The spirit in which it is framed is one of conformity, in our treaty relations, to the progressive interests and necessities of the country, so that a further increase of commercial privileges would naturally result from the policy of both countries; as is shown by the fact of the negotiation of this treaty, when such increase should appear to be, as it will be, mutually advantageous.

III.

AN IMPORTANT PRECEDENT FOR THIS TREATY IN THE ARRANGEMENT OFFERED BY MR. SEWARD IN 1866 TO THE BRITISH GOVERNMENT.

There is a very important precedent for the plan of this treaty, and for some of its leading features, in the protocol proposed in 1866 by Mr. Seward, then Secretary of State, through Mr. Adams, our minister to Great Britain. The letter of Mr. Seward and the protocol are as follows:

Mr. Seward to Mr. Adams.

No. 1737.]

DEPARTMENT OF STATE,

Washington, April 10, 1866.

SIR: I send you a copy of a very suggestive letter from Mr. Richard D. Cutts, who, perhaps you are aware, was employed as surveyor for marking, on the part of the United States, *the fishery limits under the reciprocity treaty*. Mr. Cutts's long familiarity with that subject practically and theoretically entitles his suggestions to respect.

It is desirable to avoid any collision or misunderstanding with Great Britain on the subject growing out of the termination of the reciprocity treaty. With this view I inclose a draught of a protocol, which you may propose to Lord Clarendon for a temporary regulation of the matter. If he should agree to it, it may be signed. When signed it is desirable that the instructions referred to in the concluding paragraph should at once be dispatched by the British Government.

As the fishing season is at hand, the collisions which might be apprehended may occur when that season advances.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Draught protocol communicated by Mr. Adams to the Earl of Clarendon in 1866.

Whereas in the first article of the convention between the United States and Great Britain, concluded and signed in London on the 26th October, 1818, it was declared that—

“The United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within 3 marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within certain limits heretofore mentioned;”

And whereas differences have arisen in regard to the extent of the above-mentioned renunciation, the Government of the United States and Her Majesty the Queen of Great Britain, being equally desirous of avoiding further misunderstanding, have agreed to appoint, and do hereby authorize the appointment, of a mixed commission for the following purposes, namely:

(1) To agree upon and define, by a series of lines, the limits which shall separate the exclusive from the common right of fishery, on the coasts and in the seas adjacent,

of the British North American colonies, in conformity with the first article of the convention of 1818. The said lines to be regularly numbered, duly described, and also clearly marked on charts prepared in duplicate for the purpose.

(2) To agree upon and establish such regulations as may be necessary and proper to secure to the fishermen of the United States the privilege of entering bays and harbors for the purpose of shelter; and of repairing damages therein; of purchasing wood, and of obtaining water; and to agree upon and establish such restrictions as may be necessary to prevent the abuse of the privilege reserved by said convention to fishermen of the United States.

(3) To agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial and judgment with as little expense as possible, for the violation of rights and the transgression of the limits and restrictions which may be hereby adopted.

Provided, however, that the limits, restrictions, and regulations which may be agreed upon by the said commission shall not be final, nor have any effect, until so jointly confirmed and declared by the United States and Her Majesty the Queen of Great Britain, either by treaty or by laws mutually acknowledged and accepted by the President of the United States, by and with the consent of the Senate, and by Her Majesty the Queen of Great Britain.

Pending a different arrangement on the subject, the United States Government engages to give all proper orders to officers in its employment; and Her Britannic Majesty's Government engages to instruct the proper colonial or other British officers to abstain from hostile acts against British and United States fishermen respectively.

This protocol was offered by Mr. Seward, as a *modus vivendi*, after the termination of the treaty of 1854 had thrown us back upon that of 1818, as to our fishery rights. He offered it, also, for acceptance by Great Britain as the basis of a new treaty of interpretation and regulation of those rights.

Mr. Seward's recommendation of a mixed commission, (1) "to agree upon and define by a series of lines" the fishing limits, in conformity with the first article of the convention of 1818; (2) "to agree upon and establish such regulations as may be necessary and proper to secure the fishermen of the United States the privilege of entering bays and harbors" under the proviso to the treaty; and (3) "to agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial," etc., "for violations of rights and transgressions of limits and restrictions," etc., indicates an earnest apprehension on his part that no settlement could be reached by ordinary negotiations; that the treaty could not be amicably kept unless it was amended; and that the amendments he proposed would cure the defects of the indefinite description of the rights and restrictions and fishing limits that were too generally stated in the treaty of 1818.

He saw the increasing danger of the situation, and came boldly forward to provide against its results.

The cordial manner in which these three propositions were then received by the British Government, as a basis of agreement, inspired the efforts of the present administration to renew the negotiation on this plan as the basis of a new treaty.

IV.

MEASURES OF HOSTILITY, EITHER COMMERCIAL OR ACTUAL, ARE NOT PREFERABLE TO THE TREATY BEFORE THE SENATE.

The undersigned have found no opinion expressed by any of our diplomatists in their official correspondence that the proper interpretation of article 1 of the treaty of 1813 could be otherwise secured than by a further agreement, as to its meaning, between the treaty powers.

If we demand a still more favorable agreement than that presented in this convention now under consideration, we shall probably encounter many more years of controversy and negotiation before a better result can be reached.

If, laying aside all treaty agreements, we attempt to coerce a better understanding and less grievous practices than we have already suffered through commercial retaliation, we shall find that the cost to our own people is far greater than the entire value of the fisheries.

If we resort to war, or to measures that may lead to hostilities, upon what precise definition of our rights and grievances will we justify such grave proceedings, either to our own people, or before the nations of the earth? We believe that no man can safely venture to formulate such a declaration.

Unless we can clearly state the causes that justify a war for the redress of grievances, or the clear definition of the right we seek to assert or defend, we have no right to subject the country to the perils, or even the apprehensions, of hostilities.

It has never been stated by any administration, or diplomatist, or by Congress that any one case, or that all the cases that have grown out of our disputes with Great Britain about the treaty of 1813, gave a just ground for retaliation, reprisals, or war.

The undersigned think it can not be safely denied that in article 10, 12, 13, and 14 of this treaty we have gained advantages and privi-

leges of a very important character. In them is found the full concession of every claim to fishing rights we have ever made, as being within the letter or the spirit of the treaty of 1818 that is now of any practical value; and the methods provided for their administration are quite as satisfactory as any we have ever claimed under our interpretation of that treaty. For convenience of reference we insert those articles in this paper, as follows:

ARTICLE X.

United States fishing vessels entering the bays or harbors referred to in Article I of this treaty *shall conform to harbor regulations common to them and to fishing vessels of Canada or of Newfoundland.*

They need not report, enter, or clear when putting into such bays or harbors for shelter or repairing damages, nor when putting into the same, outside the limits of established ports of entry, for the purpose of purchasing wood or of obtaining water; except that any such vessel remaining more than twenty-four hours, exclusive of Sundays and legal holidays, within any such port, or communicating with the shore therein, may be required to report, enter, or clear; and no vessel shall be excused hereby from giving due information to boarding officers.

They shall not be liable in any such bays or harbors for compulsory pilotage; nor, when therein for the purpose of shelter, of repairing damages, of purchasing wood, or of obtaining water, shall they be liable for harbor dues, tonnage dues, buoy dues, light dues, or other similar dues; but this enumeration shall not permit other charges inconsistent with the enjoyment of the liberties reserved or secured by the Convention of October 20, 1818.

ARTICLE XI.

United States fishing vessels entering the ports, bays, and harbors of the Eastern and Northeastern coasts of Canada or of the coasts of Newfoundland *under stress of weather or other casualty* may unload, reload, tranship, or sell, subject to customs laws and regulations, all fish on board, when such unloading, transshipment, or sale is made *necessary as incidental to repairs*, and may replenish outfits, provisions, and supplies damaged or lost by disaster; and in case of death or sickness shall be allowed all needful facilities, including the shipping of crews.

Licenses to purchase in established ports of entry of the aforesaid coasts of Canada or of Newfoundland, for the homeward voyage, such provisions and supplies as are ordinarily sold to trading vessels, shall be granted to United States fishing vessels in such ports, promptly upon application and without charge; and such vessels having obtained licenses in the manner aforesaid shall also be accorded upon all occasions such facilities for the purchase of casual or needful provisions and supplies as are ordinarily granted to the trading vessels; but such provisions or supplies shall not be obtained by barter, nor purchased for resale or traffic.

ARTICLE XIII.

The Secretary of the Treasury of the United States shall make regulations providing for the conspicuous exhibition, by every United States fishing vessel, of its official

number on each bow; and any such vessel, required by law to have an official number, and failing to comply with such regulations, shall not be entitled to the licenses provided for in this treaty.

Such regulations shall be communicated to Her Majesty's Government previously to their taking effect.

ARTICLE XIV.

The penalties for unlawfully fishing in the waters, bays, creeks, and harbors, referred to in Article I of this treaty, may extend to forfeiture of the boat or vessel, and appurtenances, and also of the supplies and cargo aboard when the offense was committed; and for preparing in such waters to unlawfully fish therein, penalties shall be fixed by the court, not to exceed those for unlawfully fishing; and for any other violation of the laws of Great Britain, Canada, or Newfoundland relating to the right of fishery in such waters, bays, creeks, or harbors, penalties shall be fixed by the court, not exceeding in all three dollars for every ton of the boat or vessel concerned. The boat or vessel may be holden for such penalties and forfeitures.

The proceedings shall be summary and as inexpensive as practicable. The trial (except on appeal) shall be at the place of detention, unless the judge shall, on request of the defense, order it to be held at some other place adjudged by him more convenient. Security for costs shall not be required of the defense, except when bail is offered. Reasonable bail shall be accepted. There shall be proper appeals available to the defense only; and the evidence at the trial may be used on appeal.

Judgments of forfeiture shall be reviewed by the Governor-General of Canada in council, or the governor in council of Newfoundland, before the same are executed.

We accord (in Article 12) to the fishing vessels of Canada and Newfoundland the same privileges on the Atlantic coasts of the United States that are secured to our fishing vessels by this treaty, without admitting them to fish within 3 miles of the coasts of the bays, harbors, or creeks along that sea-coast.

This treaty secures to our fishermen the free navigation of the Strait of Canso.

Article 15 secures to us the option to acquire very important commercial privileges to our fishermen whenever Congress shall conclude that they are worth the money that we may otherwise collect in duties on fish.

Congress may never make this concession; but the power to acquire these privileges, as permanent treaty rights, may become very valuable to us when the diminishing products of the fisheries in the waters adjacent to the eastern coasts of the United States and of Canada and Newfoundland increase in value, because they will be required to supply the needs of 100,000,000 of people in the United States and 30,000,000 of people in the Dominion of Canada.

This article is suggested by a wise forecast of the future necessities of our fishermen, as well as those of the people of the United States, when our population is greatly increased, and the supply of food is to be distributed to such a vast multitude of people that the allowance *per capita*, will be, accordingly, diminished.

The treaty now before the Senate is one of reciprocal concessions.

The unconditional concessions to the fishermen are not strictly commercial, but they give them great assistance in their business and in the means of relieving any distress which may befall them.

Can we ever hope to engraft on the treaty of 1818 any new agreement for commercial privileges to our fishermen without giving an equivalent in some liberty or privilege that Great Britain will claim for her fishermen?

This question is answered by the fact that we renounced in 1818 the best part of the fisheries that were of the fruits of the war for independence in order to make the residue a permanent right; and in 1854 and 1871 we agreed to pay heavily for a temporary suspension of the restrictions and limitations of the treaty of 1818.

We have made four fisheries treaties with Great Britain, in 1783, 1818, 1854, and 1871, and in none of them has any commercial privilege been secured to our fishermen. No serious effort has been made to secure such privileges prior to the negotiation now before the Senate. All that we have heretofore secured to our fishermen has been the privilege of inshore fishing, of curing and drying fish on certain parts of the British coasts, more or less restricted and changed in each successive treaty, and the right to buy wood, obtain water, make repairs, and find shelter.

Now, we find, according to the testimony of everybody concerned, and the thoroughly considered report of our Committee on Foreign Relations, made after a searching investigation conducted upon our coasts, and upon the testimony of experts laid before the Senate, that the inshore fisheries, for which we have paid and suffered so much, are of no value to us, and that the privilege of purchasing bait from the Canadians is an injury to our fishing interests rather than a benefit.

These declarations, which were true, show that many of the contentions and strifes we have had over this subject, for seventy years, have been about a claim of rights and privileges that are no longer of any advantage to us.

They prove that we need only such advantages, or privileges, for our

fishermen on the Canadian coasts as are enjoyed by our merchant vessels, and that these are not very important to them.

Purse-seining has revolutionized the mackerel fishery almost entirely, and has largely affected the herring fishery, and has given to our fishermen great advantages in "the catch." But Canadian capital and energy will not long permit us to do all the purse or deep-water seining.

The freezing of fish on shipboard, so as to get them fresh to our markets, is of recent date, but is a very important change in the fishing business. In this the Canadians have no greater advantages than our fishermen.

These two improvements in the fishing business, with the added power of steam, which has been applied to sea navigation since 1818, have produced the revolution in these pursuits which renders it more convenient to have commercial rights for some of our fishing vessels, but has removed the necessity to have fishing privileges within three miles of any of the coasts or in the bays of the British possessions that are not classed as great arms of the sea.

The history of the controversies that have found a final solution in the treaty now before the Senate, and the explanation of the bearing of the treaty upon those questions, are so clearly and ably stated by Hon. W. L. Putnam, in a letter dated April 16, 1888, that we append it to this report (Appendix E).

Mr. Putnam being one of our plenipotentiaries who negotiated this treaty, his review of the diplomatic and legislative history is an important exposition of the merits of this subject.

V.

THIS TREATY COMPARED WITH THE COMMERCIAL ARRANGEMENT STYLED "THE RECIPROCITY OF 1830."

This treaty proposes liberal reciprocity to us, confined to fishing interests, and gives us all the time we may choose to claim in which to consider our best interests and determine whether we will accept or reject the overture.

The right of choosing between this proffered commercial reciprocity and the privileges accorded to us under what is termed "the reciprocity of 1830" is a decided advantage in favor of our fishermen.

The products of our fisheries in Canadian waters are not permitted to enter Canadian ports on any ships of the United States by the Brit-

ish proclamation of November 5, 1830. That proclamation declares "that the ships of and belonging to the said United States of America may import from the United States aforesaid into the British possessions abroad *goods the produce of those States*, and may export goods from the British possessions abroad to be carried to any foreign country whatever."

This cannot apply to fishery products taken or purchased in the Canadian waters or ports, and was not intended in any manner to add to the four purposes for which our fishermen may enter Canadian ports under the treaty of 1818, as we understand that proclamation, or to repeal that treaty.

This proclamation was a month later than that made by President Jackson, and was the British response to our proclamation, under which "British vessels and their cargoes are admitted to an entry into the ports of the United States from the islands, provinces, and colonies of Great Britain, on or near the North American continent and north or east of the United States." The full text of these proclamations is hereto appended as Appendices A and B.

These proclamations set forth the entire concurrent action of the two Governments (which is called the reciprocity of 1830). There having been no change in the situation since that time, that is "the reciprocity" which still exists, as matter of law.

The broad liberality of our concession is in very striking contrast with that of Great Britain; but we have lived under this inequality of rights for more than fifty years, without a serious protest until within three years, and the complaints we have made arose from the British construction of our fishing rights and not of our commercial rights under that reciprocity.

Our fishing vessels are equally barred (under the British contention) by the treaty of 1818, and by the British proclamation of November 5, 1830, from entering their ports with cargoes of fish taken in Canadian waters, without reference to the rights to touch and trade or to any other commercial character, that we may give them under our laws. To gain these rights for our fishermen, we have a choice of grave alternatives.

But the cost of the naval and military preparation that would be necessary to give confidence to our own people, in supporting any extreme demand or stringent measures connected with this subject, would be greater than the whole value of these fisheries for the next half century.

VI.

THE PRESIDENT HAS ONLY PERFORMED A PLAIN DUTY, IN THE INTERESTS OF ALL THE PEOPLE OF THE UNITED STATES, AND TO THE SENATE IS LEFT THE RESPONSIBILITY.

The undersigned do not find it necessary to answer in detail the various objections urged in committee by the Senators opposed to the ratification of this treaty, because no amendment was offered to indicate that the treaty could be so improved as to gain the support of any member of the majority of the committee.

The undersigned understand that the dissent from this negotiation is directed to it as an entirety. This dissent is based, in part, upon the opinion of some members of the majority that the President should not have entered upon any negotiation, in view of the resolution adopted by the Senate on the 3d day of February, 1886, and the opinion of Congress as it was expressed in the non-intercourse act approved March 3, 1887. That resolution is as follows:

Resolved, That in the opinion of the Senate the appointment of a commission, in which the Governments of the United States and Great Britain shall be represented, charged with the consideration and settlement of the fishing rights of the two Governments on the coasts of the United States and British North America, ought not to be provided for by Congress.

This resolution related, as we understand it, solely to the question whether such negotiation should be conducted by commissioners, under an act of Congress, or by the President, under his constitutional power to make treaties.

The Senate adhered to its constitutional power to ratify or reject a treaty, and insisted that the President should make any negotiation he might see fit to conduct in such form and under such conditions that the power of the Senate over such subjects should not be interfered with.

The retaliatory act of Congress above mentioned was not intended, and could not have been intended, to instruct the President as to the will of the legislature in a matter over which Congress has no authority—the negotiation, ratification, or promulgation of a treaty.

Congress has the right to declare that in some or all of the hundreds of cases that have occurred in which the treaty of 1818 has been in question, it has been violated, and that retaliation, reprisals, or war shall follow such abuses until they are compensated, and they shall cease. Such a declaration as to the violation of the treaty was dis-

tinety made in the report of the Senate Committee on Foreign Relations, on the 19th of January, 1887. We quote from that report, as follows :

It will be seen, from the correspondence and papers submitted by the President, in his message on the subject, of the 8th of December last (Ex. Doc. No. 19, Forty-ninth Congress, second session), and from the testimony taken by the committee, that some of these instances of seizure or detention, or of driving vessels away by threats, etc., were in clear violation of the treaty of 1818, and that others were on such slender and technical grounds, either as applied to fishing rights or commercial rights, as to make it impossible to believe that they were made with the large and just object of protecting substantial rights against real and substantial invasion, but must have been made either under the stimulus of the cupidity of the seizing officer, sharpened and made safe by the extraordinary legislation to which the committee has referred, whereby the seizing officer, no matter how unjust or illegal his procedure may have been, is made practically secure from the necessity of making substantial redress to the party wronged, or of punishment, or else they must have arisen from a systematic disposition on the part of the Dominion authorities to vex and harass American fishing and other vessels so as to produce such a state of embarrassment and inconvenience with respect to intercourse with the provinces as to coerce the United States into arrangements of general reciprocity with the Dominion.

But Congress did not follow up this bold declaration of that committee with a demand for redress, or with any provision of law that was based upon the fact that the treaty of 1818 had been violated by Great Britain. It was our commercial rights that Congress undertook to protect.

The committee did not ask the Senate to pass a bill that would commit the country, if it should become a law, to a state of actual hostility towards Great Britain, or even to a firm declaration that Great Britain had violated the treaty of 1818 in the manner and with the motives stated in the foregoing extract from their report.

Congress was either satisfied that no occasion had arisen which would justify decisive measures, such as retaliation, reprisals, or war, in resentment for any actual violation of the treaty, or else it sought to evade its just responsibility to the country by increasing the powers of the President to retaliate on British commerce, and by throwing upon him the responsibility of deciding whether the "recent" conduct of that Government and of the provinces demanded of the United States that any retaliation should be proclaimed and enforced.

The House of Representatives demanded broader powers for the President than the Senate would agree to, but both houses hastened to devolve upon him the decision of the whole question of our treaty re-

lations with Great Britain, and gave him the discretion to employ all necessary means to put his decision in force.

This is the law that Congress enacted to meet that aggravated state of affairs, as described in the report of the Senate committee :

AN ACT to authorize the President of the United States to protect and defend the rights of American fishing-vessels, American fishermen, American trading and other vessels, in certain cases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall be satisfied that American fishing vessels or American fishermen, visiting or being in the waters or at any ports or places of the British dominions of North America, are or then lately have been denied or abridged in the enjoyment of any rights secured to them by treaty or law, or are or then lately have [been] unjustly vexed or harassed in the enjoyment of such rights, or subjected to unreasonable restrictions, regulations, or requirements in respect of such rights; or otherwise unjustly vexed or harassed in said waters, ports, or places; or whenever the President of the United States shall be satisfied that any such fishing vessels or fishermen, having a permit under the laws of the United States to touch and trade at any port or ports, place or places, in the British dominions of North America, are or then lately have been denied the privilege of entering such port or ports, place or places in the same manner and under the same regulations as may exist therein applicable to trading vessels of the most favored nation, or shall be unjustly vexed or harassed in respect thereof, or otherwise be unjustly vexed or harassed therein, or shall be prevented from purchasing such supplies as may there be lawfully sold to trading vessels of the most favored nation; or whenever the President of the United States shall be satisfied that any other vessels of the United States, their masters or crews, so arriving at or being in such British waters or ports or places of the British dominions of North America, are or then lately have been denied any of the privileges therein accorded to the vessels, their masters or crews, of the most favored nation, or unjustly vexed or harassed in respect of the same, or unjustly vexed or harassed therein by the authorities thereof, then, and in either or all of such cases, it shall be lawful, and it shall be the duty of the President of the United States, in his discretion, by proclamation to that effect, to deny vessels, their masters and crews, of the British dominions of North America, any entrance into the waters, ports, or places of, or within the United States (with such exceptions in regard to vessels in distress, stress of weather, or needing supplies as to the President shall seem proper), whether such vessels shall have come directly from said dominions on such destined voyage or by way of some port or place in such destined voyage elsewhere; and also, to deny entry into any port or place of the United States of fresh fish or salt fish or any other product of said dominions, or other goods coming from said dominions to the United States. The President may, in his discretion, apply such proclamation to any part or to all of the foregoing-named subjects, and may revoke, qualify, limit, and renew such proclamation from time to time as he may deem necessary to the full and just execution of the purposes of this act. Every violation of any such proclamation, or any part thereof, is hereby declared illegal, and all vessels and goods so coming or being within the waters, ports,

or places of the United States contrary to such proclamation shall be forfeited to the United States; and such forfeiture shall be enforced and proceeded upon in the same manner and with the same effect as in the case of vessels or goods whose importation or coming to or being in the waters or ports of the United States contrary to law may now be enforced and proceeded upon. Every person who shall violate any of the provisions of this act, or such proclamation of the President made in pursuance hereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both said punishments, in the discretion of the court.

Approved, March 3, 1887.

This law relates to past offenses as well as to those that may hereafter occur. As to past offenses, Congress abdicated its authority to declare that they constituted just grounds for retaliation, and left that matter solely to the discretion of the President or else Congress intended that the President should have these powers to meet a case of emergency, and should also employ his constitutional power of making treaties (which Congress could not control) as a part of "his discretion" in providing a way through which the evils complained of should be remedied.

The undersigned can not impute to Congress that its purpose, in devolving upon the President these broad discretionary powers and conditional duties, was to forbid, or to embarrass, the free exercise by him of his constitutional power to make treaties, with the advice and consent of the Senate, or that these extraordinary powers were given him to enable Congress to escape its just responsibility for measures that were necessary for the protection of the honor of the country or the interests of the people.

If the President had resorted to retaliatory measures against Canadian commerce, under this act of March 3, 1887, without having attempted any negotiation with Great Britain, the open way that was indicated by Mr. Seward's protocol in 1865, to which we have referred, and the favorable impression it made on the British Government, would have been pointed out by an indignant people as an abandoned opportunity for an amicable agreement with Great Britain, and he would have been amenable to just censure.

But, aside from this, his duty to humanity, as well as to his country, forbade him from exposing the interests and prosperity of 65,000,000 of people to danger, by hasty or extreme measures of retaliation, while it was possible to reach a just settlement of our disputes with Great Britain over matters that concern only a few thousand people, who

would be more benefited by such an agreement than they could be by retaliatory laws.

The President has succeeded in making provision for a settlement of these long-standing disputes on terms that are just and reasonable, as we are satisfied—a much better settlement than has been even attempted heretofore, and one that will increase, in the future, the liberality of commerce with Canada.

If the Senate shall decide to ratify this treaty there will remain no doubt that it assumes all the responsibility for what may hereafter result from the proper employment by the President of the retaliatory powers that Congress has conferred upon him.

If the proper use of those powers is considered by Great Britain as a violation of the treaty of 1818, in demanding for our fishermen greater liberties and privileges than that treaty secured to them, and that we are enforcing that demand through commercial duress, the Senate will also take whatever responsibility may belong to that situation.

Congress declined to say in the act of March 3, 1887, that the rights of American fishermen had been denied or abridged, but left it to the President to determine that question. If this treaty is rejected, it is beyond dispute that retaliation is the only means, short of war, by which we can redress our wrongs, if we have suffered any. The Senate, in rejecting this treaty, will affirm that such wrongs exist, which Congress did not so assert, and, because thereof, will force the President to proclaim non-intercourse.

VII.

THE PROTOCOL TO THE TREATY IS AN HONORABLE AND FRIENDLY OVERTURE OF THE BRITISH GOVERNMENT, AND SHOULD BE ALLOWED TO DEVELOP, BY ACTUAL EXPERIENCE, WHETHER THIS TREATY WILL BE BENEFICIAL TO OUR FISHERIES AND COMMERCE.

In view of a possible disagreement between the Senate and President as to the value of this treaty to our fishermen, the undersigned respectfully call the attention of the Senate to the importance of postponing its consideration until the next December session of Congress.

The protocol to the treaty, suggested and offered by the British plenipotentiaries, tenders to our fishermen very liberal commercial privileges in Canadian ports for two years.

This overture is equivalent, almost, to a guaranty that during this period the British Government, in conjunction with the provincial gov-

ernments, will prevent the recurrence of the interferences with our fishermen that have given them such serious disquietude. It will also put into practice, substantially, all the provisions of the present treaty, except those relating to the delimitation of fishing boundaries.

A single fishing season, under such conditions, will demonstrate that this treaty is a failure, or else that it is of great value to the country.

The advantage of such experience is manifest, and we should not rashly trust to our opinions, which must be largely conjectural, when we can fortify them or disprove their soundness by a short delay in our action, which does not commit us, in the least degree, either for or against the treaty.

The British Government has exerted a restraining influence during the whole period since 1818 over the provincial governments as to their demands and proceedings under that treaty. That Government has encouraged liberality in the conduct of the fishermen and in commercial interchange between the United States and the provinces; seeing that the prosperity of those countries greatly depended on such a policy.

It has not been an easy task to restrain the people of the provinces to a course of moderation. Political reasons, not always favorable to the Crown, and the jealousies of rival interests in fishing rights held in common by the people of two countries, and even the lingering hatreds engendered by our Revolutionary war, have been active in promoting discord in these colonies. Great Britain never before had so capital an interest in fostering the loyalty of the Canadians. The Suez Canal is scarcely more important to the interests of that Empire than the Canadian Pacific Railway.

But other interests of the most important character inspire the British Government with an earnest purpose to cultivate the closest friendship with the people of Canada.

It is evidently the true policy of the British Government to satisfy the people of these provinces that the treaty now before the Senate will be of advantage to them, because of the additional liberty of commerce that it extends to our fishermen; and this was doubtless a strong inducement to that Government to offer voluntarily to us the privileges stated in the protocol to the treaty.

We have almost as great an interest in affording to our people the opportunity of a practical test of the advantage of these privileges offered in this protocol.

In matters of such moment we can not justify a rejection of such a

proposition, not requiring our formal acceptance to make it available, on the ground that we could not, without dishonor, permit such a course, resulting in such possible advantages to us, even for one fishing season, and then reject the treaty.

We have not in any way invited or suggested this offer of the British Government, and we are not asked to accept it. It proposes, for a time, to liberalize the commercial privileges of our fishermen in the provincial ports, for reasons satisfactory to the British Government.

If we should hasten our action on this treaty with the purpose of preventing an effort of that Government to satisfy Her Majesty's subjects that a liberal policy towards us is the best, or even of convincing our people by experience that such a policy is also best for us, we would incur greater discredit by such action than could possibly attend our rejection of the treaty, after a fair trial of the British expedient presented in this protocol had satisfied our people that the treaty should not be ratified.

VIII.

THE HEADLAND THEORY, AS APPLICABLE TO THE BAYS, HARBORS, AND CREEKS THAT ARE CLAIMED AS TERRITORIAL WATERS, HAS NOT BEEN ABANDONED BY THE BRITISH GOVERNMENT, EXCEPT IN THIS TREATY. IT WAS A VITAL QUESTION WHEN THIS NEGOTIATION WAS ENTERED UPON.

It is insisted by some that Great Britain had abandoned the headland theory, and that it was obsolete when this treaty was made.

The undersigned do not understand that the British headland theory, as applied to the bays, harbors, and creeks that had geographical names and limits, and were included by British or provincial laws within the local jurisdictions in 1818, has been abandoned by Great Britain. Outside of a limit of 3 miles from the headlands of such indentations of the sea-coast it was abandoned as early as 1815, in the case of the American fishing vessels that were warned off the coast by the British man-of-war *Jossour*.

Our claims could not be fairly predicated, diplomatically, on such an admission by Great Britain as to the base-line from which the 3-mile limit is to be measured.

That being still an open question, the claims of either side were a necessary feature in the negotiation of this treaty.

If our contention was *indisputably just*, a peremptory demand for its allowance was the only course we could adopt. Such a demand, we

believe, has never been formally made by this Government. Congress certainly has never affirmed the indisputable justice of our claim. The United States have preferred to let this question, with all the others that have arisen under the treaty of 1818, continue in reach of discussion and negotiation.

In that situation the present administration found this controversy.

Mr. Bayard proposed to the British Government that the 3-mile fishing limit should be measured, in the bays that were 10 miles or less in width, from that point nearest the entrance where the shores are 10 miles distant from each other. He found his support for that offer in the arrangement between Great Britain and other European nations for fishing in the bays and harbors of their respective coasts along the North Atlantic and the northern seas.

It being generally conceded that the limit of local jurisdiction extended 3 miles from the coast out into the sea, and that this distance was adopted because it measured the range of artillery in ancient times, it is obvious that when the range of artillery is extended to 5 miles it is due to the security of bays and harbors reaching far inland that treaty arrangements fixing a new measurement should have some reference to the increased limits for the protection of the people residing along such shores corresponding with the improved range of artillery.

This offer made no allusion to any headland theory that the British Government had ever asserted; still it was directly opposed to assertions of that theory which Great Britain had often made, and called forth the following "observation" from the Marquis of Salisbury upon the proffer made by Mr. Bayard:

A reference to the action of the United States Government, and to the admission made by their statesmen in regard [to] bays on the American coasts, strengthens this view; and the case of the English ship *Grange* shows that the Government of the United States, in 1793, claimed Delaware Bay as being within territorial waters.

Mr. Bayard contends that the rule, which he asks to have set up, was adopted by the umpire of the commission, appointed under the convention of 1853, in the case of the United States fishing schooner *Washington*; that it was by him applied to the Bay of Fundy, and that it is for this reason applicable to other Canadian bays.

It is submitted, however, that as one of the headlands of the Bay of Fundy is in the territory of the United States, any rules of international law applicable to that bay are not therefore equally applicable to other bays the headlands of which are both within the territory of the same power.

This provision would involve a surrender of fishing rights which have always been regarded as the exclusive property of Canada, and would make common fishing-grounds of the territorial waters which, by the law of nations, have been invariably regarded both in Great Britain and the United States as belonging to the adjacent

country. In the case, for instance, of the Baie des Chaleurs, a peculiarly well-marked and almost land-locked indentation of the Canadian coast, the 10-mile limit would be drawn from points in the heart of Canadian territory, and almost 70 miles from the natural entrance or mouth of the bay. This would be done in spite of the fact that, both by imperial legislation and by judicial interpretation, this bay has been declared to form a part of the territory of Canada. (See Imperial Statute, 14 and 15 Vict., cap. 63; and *Mouatt v. McPhee*, 5 Sup. Court of Canada Reports, p. 66.)

From this statement of the British contention, it appears that the headland theory was still adhered to by that Government in March, 1887, but it was admitted that it had been relaxed as to the Bay of Fundy for special reasons.

Mr. Bayard's reply to the "observations" of the Marquis of Salisbury, which is set forth on pages 55 to 60, inclusive, of Senate Executive Document No. 113, first session of Fiftieth Congress, refutes the force of those "observations" by citing precedents furnished by the conduct of the British Government in this matter, and the decision of the umpire in the cases of the *Washington* and the *Argus*, in which he wholly discarded the headland theory and made an award in favor of the owner.

But these counter-statements only served to show that the headland theory, in its application to bays within the jurisdictional limits, was still in controversy between the two Governments, and that there was little disposition on the part of the British Government to yield, as there was on our part to admit, the justice of that construction of the treaty of 1818.

These contentions made it necessary that a better understanding should be reached; and if the two Governments could not accomplish this by negotiation, it was certain that increasing strife and broils between their people would seriously endanger the commerce of each, and would expose both countries to the peril of being driven into hostilities by the designs of vicious men, or through the angry contentions of well-meaning persons.

IX.

THE CLOSE RELATIONS BETWEEN THE PEOPLE OF CANADA AND THE UNITED STATES IN THE USE OF THE COMMON RIGHT OF FISHERY MAKE IT IMPERATIVE TO REGULATE THEIR ASSOCIATION BY FRIENDLY AGREEMENT RATHER THAN BY RETALIATORY LAWS.

Mutual and amicable agreement between the two Governments, clearly understood and faithfully executed, is the only way in which the people

of Newfoundland and Canada and of the United States can ever peacefully enjoy, *in common*, the valuable rights of fishery.

Reciprocity, in some form, is an element in every treaty made for the settlement of questions that are sincerely in dispute between independent powers. In all of our treaties with Great Britain, relating to the extra-territorial rights, liberties, or privileges of each in the other's country or jurisdiction, reciprocity has been conspicuously stated as a leading motive and purpose. The provisional treaty of peace of November 30, 1782, sets out with this declaration:

Whereas reciprocal advantages and mutual convenience are found by experience to form the only permanent foundation of peace and friendship between States, it is agreed to form the articles of the proposed treaty on such principles of liberal equity and reciprocity as that, partial advantages (those seeds of discord) being excluded, such a beneficial and satisfactory intercourse between the two countries may be established as to promise and secure to both perpetual peace and harmony.

This declaration was repeated, in substance, in the definitive treaty of peace of September 3, 1783.

In both these treaties the right of fishery was defined as between the people of both countries, the United States expressly yielding some of the liberties they had enjoyed in common with the colonies that remained subject to the British Crown on the coasts of Newfoundland as as to curing and drying fish on that island.

The treaty of October 20, 1818, was made "to cement the good understanding which happily exists between" the two Governments. In that treaty we renounced our right of fishery on certain coasts, etc., but regained the right to cure and dry fish on a part of the southern coasts of Newfoundland.

Under that treaty, which was reciprocal, misunderstanding arose to its meaning, and the reciprocity treaty of 1854 was made, in part "to avoid further misunderstanding between their respective citizens and subjects in regard to the extent of the right of fishing on the coasts of British North America secured by Article I of the Convention" of 1818, and "to regulate the commerce and navigation between their respective territories and people."

The extensive reciprocity of this treaty continued for twelve years.

At its termination by the United States the "misunderstandings" under the treaty of 1818 again arose, when that convention became then, as it is now, the measure of our treaty rights.

The treaty of 1871 was made so as "to provide for an amicable set-

element of causes of difference between the two countries," and arbitration and reciprocity pervaded every one of its forty-three articles.

In all the wide range of our treaty engagements with the treaty powers of the world there is scarcely one that does not contain some mutual advantage or reciprocal concession, and they cover every subject that has been suggested, in the experience of mankind, as being fit or convenient to be settled by international agreement rather than to be left under the control or security that might be afforded by the laws enacted by the respective countries, which they could alter or repeal at pleasure.

Now we are again admitted to the field of "misunderstanding," "in regard to the extent of the right of fishing on the coasts of British North America," with an increased number of cases of seizures and interferences with our fishermen growing out of those disputes, and the question is, whether we shall abandon all efforts to remove these misunderstandings by further agreements, or shall we treat every claim we make as a *sine qua non*, and its refusal an ultimatum, and resort, as the first expedient, to retaliatory legislation to enforce it. That failing, shall we stop and abandon the claim, or prepare for its support by coercive measures?

Retaliation may secure just dealing between nations whose interests are entirely distinct and separate; but that is not our situation toward the people or the governments of Canada or Newfoundland.

X.

THE CHARACTER AND VALUE OF THE FISHERIES ON THE COAST OF LABRADOR AND THE BANKS OF NEWFOUNDLAND, AND THE INCREASING DEMAND FOR FOOD-FISHES TO SUPPLY THE WANTS OF THE PEOPLE.

The inshore fishing along the coasts of Labrador are the best we have in the Gulf of St. Lawrence, while that along the southern and western shores of Newfoundland is far better than any along the coasts of Nova Scotia or New Brunswick.

Our plenipotentiaries who negotiated the treaty of 1818 mention these facts to show that we lost nothing of value when we gave up the inshore fisheries of Nova Scotia, and gained much advantage by having access to the shores of Labrador, as will hereafter appear in this report.

Mr. Sabine, in his report to the Secretary of the Treasury, in 1852, gives a very interesting account of the fisheries on the northeastern

coast, from which we make the following extracts, found in Senate Ex. Doc. 22, second session Thirty-second Congress

An account of the fishing-grounds has been reserved for the conclusion. Of those near our cities, and visited for the purpose of supplying our markets with fish to be consumed fresh, it is unnecessary to speak. Those within the limits of British America, and secured to us by treaty, as well as those on the eastern coasts of Maine, are less generally known and may properly claim attention. Of the distant, Newfoundland is the oldest. That vessels from Boston fished there as early as the year 1645 is a fact preserved in the journal of Governor Winthrop. The "great bank," which has been so long resorted to, is said to be about 200 miles broad and nearly 600 miles long. In gales the sea is very high, and dense fogs are prevalent. The water is from 25 to 95 fathoms deep. The edges of the bank are abrupt and composed of rough rocks. The best fishing-grounds are between the latitudes of 42° and 46° north. The "bankers," as the vessels employed there are called, anchor in the open sea, at a great distance from the land, and pursue their hazardous and lonely employment, exposed to perils hardly known elsewhere. The fish are caught with hooks and lines, and (the operations of splitting and dressing performed) are salted in bulk in the hold, from day to day, until the cargo is completed. The bank fish are larger than those taken on the shores of Newfoundland, but are not often so well cured. The first American vessel which was fitted for the Labrador fishery sailed from Newburyport toward the close of the last century. The business, once undertaken, was pursued with great energy, and several hundred vessels were engaged in it annually previous to the war of 1812. A voyage to Labrador, unlike a trip to the Banks of Newfoundland, is not without pleasant incidents, even to landsmen. The coast is frequented for a distance of 10 or 12 degrees of latitude. It has been preferred to any other on account of its security and a general certainty of affording a supply of fish. Arriving in some harbor early in June, an American vessel is moored and remains quietly at anchor until a full "fare" has been obtained, or until the departure of the fish requires the master to seek another inlet.

The fishing is done entirely in boats, and the number usually employed is one for about 30 tons of the vessel's register. Here, under the management of an experienced and skillful master, everything may be rendered systematic and regular. As soon as the vessel has been secured by the necessary anchors, her sails and light rigging are stowed away, her decks cleared, her boats fitted, and a day or two spent in fowling and sailing, under color of exploring the surrounding waters and fixing upon proper stations for the boats, and the master announces to his crew that they must try their luck with the hook and line. Each boat has now assigned to it a skipper or master, and one man. At the time designated, the master departs with his boats, to test the qualities of his men, and to mark out for them a course for their future procedure.

Nothing could be more injurious to men, who are brought into such intimate association by their common right of fishing on those distant shores, than a policy of their governments which would cause them to make reprisals, the stronger against the weaker.

Hon. Robert J. Walker, whose ability as a statesman is nowhere

seriously questioned, in a letter to Mr. Seward, Secretary of State, dated April 24, 1868, thus describes the value of the fisheries as sources of food supply. He says:

But there are other most important considerations connected with extended coasts and great fisheries. The fisheries are capable of furnishing more and cheaper food than the land.

The reasons are—

(1) The ocean surface is nearly four times that of the land, the area being 145,000,000 square miles of ocean surface to 52,000,000 of land.

(2) The ocean everywhere produces fish, from the equator to the pole, the profusion of submarine animals increasing as you go north up to a point but 433 miles from the pole and believed to extend there, whereas, in consequence of mountains, deserts, and the temperature of the surface of the earth in very high latitudes, less than half its surface can be cultivated so as to produce food in any appreciable quantities.

(3) The temperature of the ocean, in high latitudes, being much warmer than that of the land surface, there is increased profusion of submarine animal life, especially in the Arctic and Atlantic Seas, where, on account of extreme cold, the land surface produces no food. In warm latitudes the deep-sea temperature diminishes with the depth, until a certain point, below which it maintains an equable temperature of 40° Fahrenheit. The temperature of the ocean in latitude 70° (many degrees warmer than the land surface) is the same in all depths. There are wonderful provisions for the multiplication of animal life in the ocean, and it moderates both heat and cold. These are additional reasons in favor of the existence of a Polar Sea, filled with a far greater profusion of submarine animal life than any other seas, and, as a consequence, possessing far the best fisheries. Indeed, as fish progress northward, on account of the better ocean temperature there, as also, because the marine food there is more abundant, there can be little doubt that the open Polar Sea will furnish fisheries of incredible value.

(4) The ocean produces food in all latitudes for the support of animal submarine life. These are squid (the principal food of the whale), also abundance of nutritious sea-grasses, etc., upon which the fish feed. Besides, as the earth is more and more cultivated, and farms, as well as towns and cities, drained by creeks and rivers to the seas, the submarine food is correspondingly augmented. Even in mid-ocean the phosphorescence observed there is produced by the presence in the water of myriads of living animals.

(5) Whilst the earth produces food by plowing its surface only a few inches deep, the ocean supplies myriads of fish, tier on tier, thousands of fathoms deep. Thus, the registered take of herrings in the Scotch fisheries, in 1861, was 900,000,000, whilst that of Norway, in the latitude of Iceland and Greenland, was far greater.

Perhaps, however, the main reason why the ocean produces so much more food for man than the land is, that whilst land animals only give birth to one or two of their young at a time, some fish produce millions of ova, to be matured into life. Thus, a female cod has been found to contain 3,400,000 ova; and other fish ova varying from several millions to 36,000. Hence, the vast success attending the increased production of fish by transfer, by sowing the spawn, and other methods known to ichthyology.

Nothing could more certainly lessen the food supply of the people, which, after all, is the basis of all human progress, than to promote strife amongst fishermen visiting the same waters. A policy that leads to such a result is an injustice to the human family.

No wealth, national or personal, can be justly earned when it comes from diminishing the supply of human food.

With all our vast excess of cereals and of animal food we still need all the fish we can gather from the oceans and seas for the comfort and economy of living, especially among the industrial classes of our rapidly increasing population. The Atlantic and Pacific fisheries rank in importance along with the production of beef, mutton, and pork as a source of food supply, and as a competitive element in the food markets even of this abundant country.

Our fishing rights and liberties along the coasts of Labrador and Newfoundland, as fixed by the treaty of 1818, are rights to be enjoyed in common with the British people, and are such as no other nation has. They are partnership rights, in the intimate character of the association, in their labors and privileges, of our fishermen with theirs. No two nations were ever drawn into a closer relationship, or one in which good-will and mutual forbearance were more essential to the profitable pursuit of a great industry, than that established between us by the joint struggles of the colonies, confirmed by the treaty of 1783, and renewed, as to ports of Labrador and Newfoundland, almost without restriction, by the treaty of 1818.

As to this, by far the most essential part of the rights reserved to us in that treaty, we can no more preserve and enjoy its value to us, under the plan of reprisals, through retaliatory laws, upon British commerce, than copartners can promote their joint business interests by each one attempting constantly to destroy the value of the other partner's share in the venture.

Our vessels and theirs are anchored side by side in the bays, or follow the same schools of fish, and capture them wherever they are found along these coasts. One fisherman entices the fish around his vessel with bait and another comes in and takes what he can with his lines or nets, just as if the whole business was a copartnership.

If these vessels belong to countries that are arrayed in commercial hostility based upon retaliatory laws and ready to break out, upon slight provocation, into a war, their friendly association will be impossible.

XI.

THE USE OF FLEETS TO INTERPRET A TREATY.

Under the misunderstandings of the past we have on both sides sent fleets to these waters to protect our fishermen against each other, and against the unfriendly conduct of the local governments; fleets to enforce agreements that the governments concerned could not expound by a mutual understanding.

If these questions are left open, and commercial war is inaugurated through measures of retaliation, how many ships and guns is it supposed will be needed to keep the peace between our fishermen on the coasts of Labrador and Newfoundland?

The danger in this direction does not come from the desire of either Government to promote a war, but from their inability to prevent its initiation through the personal hostilities of men associated in the use of common rights and privileges, and stimulated by rivalries which are encouraged by laws of retaliation enacted by their respective Governments.

These are some of the dangers against which this treaty wisely makes safe provision.

XII.

THE AREA YIELDED BY THE DELIMITATIONS OF THIS TREATY, AS COMPARED WITH THOSE YIELDED BY THE BRITISH GOVERNMENT ON THEIR CONSTRUCTION OF THE LIMITS OF OUR "RENUNCIATION" UNDER THE TREATY OF 1818.

It is alleged by some that this treaty yields to the British Government 50,000 square miles of exclusive fishing-grounds beyond what we yielded in the treaty of 1818.

Taking the contention of the United States that no headland theory is to be found in the treaty of 1818, and that the exclusive fishing limit is a line 3 miles from the shore, at low water, that enters all harbors, bays, and creeks that are more than 6 miles wide at the entrance, and follows the sinuosities of the coast thereof, this estimate of the area surrendered in this treaty is greatly exaggerated.

This is the narrowest limit to which we have confined our renunciation in the treaty of 1818, of the common right of fishery, in our contentions with Great Britain.

The total area as to which we renounced the common right of fishing, according to this construction of that treaty, is 16,424 nautical square miles.

The additional area of renunciation under the delimitations of the proposed treaty, now before the Senate, is 1,127 square miles, being $6\frac{8}{10}$ per cent. addition to the former area of exclusion.

The total area of bays, creeks, and harbors not more than 6 miles wide at their mouths is about 6,599 square miles, and is included in the above-mentioned measurement of 16,424 square miles.

The British claim as the true construction of the agreement in the treaty of 1818, that it fixed the line within which we renounced the common right of fishery at the distance, measured seaward, of 3 miles from the entrance of *all* bays, harbors, and creeks of His Majesty's dominions. This would add an area of 3,489 square miles to the exclusive fishing grounds claimed by the British Government, while the area in which we have renounced the common right of fishing in those bays, harbors, and creeks under the proposed treaty now before the Senate is 1,127 square miles.

Thus, under the British contention that Government yields, in this treaty, 3,489 square miles of exclusive fishing waters to the people of the United States as a common fishery, and we yield 1,127 square miles to the British Government as exclusive fishing waters, which we now claim to enjoy with the U. S. as a common fishery under our construction of the treaty of 1818, which they refuse to admit.

They yield more than two-thirds of their claim to us, and we yield less than one-third of our claim to them, for the sake of settling forever a dispute that has lasted for seventy years, and has been in every way a costly and disturbing contention to our people. (See official statement from the Coast Survey, marked D.)

If these disputed areas were the richest fisheries in the world, the settlement of our respective rights in them, as arranged in the treaty now before the Senate, should be welcomed by the American people with entire satisfaction.

When we know, from the examination and report of the Senate Committee on Foreign Relations, that this disputed area is of no real advantage to our fishermen, and that this statement is supported by conclusive evidence, furnished by the Halifax Commission, and by Professor Baird, our former Commissioner of Fisheries, no ground seems to be left for the contention of those who oppose this settlement.

XIII.

THE VIEWS OF THE PRESIDENT OF THE UNITED STATES AS TO THE PROPER EXECUTION OF THE ACT OF CONGRESS OF MARCH 3, 1887, OPPOSED TO THOSE OF THE CAPITALISTS WHO CONTROL OUR FISHING INDUSTRY AND REAP THE GREATEST ADVANTAGES FROM THEM.

The president of the American Fishery Union, in 1887, brought the subject of retaliation to the attention of the President of the United States, and insisted that it should be applied only to the exclusion of British-American fishing products from the markets of the United States. To that demand the President of the United States replied as follows :

EXECUTIVE MANSION,
Washington, D. C., April 7, 1887.

GENTLEMEN: I have received your letter lately addressed to me, and have given full consideration to the expression of the views and wishes therein contained in relation to the existing differences between the Government of Great Britain and the United States growing out of the refusal to award to our citizens engaged in fishing enterprises the privileges to which they are entitled either under treaty stipulations or the guaranties of international comity and neighborly concession. I sincerely trust the apprehension you express of unjust and unfriendly treatment of American fishermen lawfully found in Canadian waters will not be realized; but if such apprehension should prove to be well founded, I earnestly hope that no fault or inconsiderate action of any of our citizens will in the least weaken the just position of our Government, or deprive us of the universal sympathy and support to which we should be entitled.

The action of this administration since June, 1885, when the fishery articles of the treaty of 1871 were terminated under the notification which had two years before been given by our Government, has been fully disclosed by the correspondence between the representatives and the appropriate departments of the respective Governments, with which I am apprised by your letter you are entirely familiar. An examination of this correspondence has doubtless satisfied you that in no case have the rights or privileges of American fishermen been overlooked or neglected, but that, on the contrary, they have been sedulously insisted upon and cared for by every means within the control of the executive branch of the Government.

The act of Congress approved March 3, 1887, authorizing a course of retaliation, through executive action, in the event of a continuance on the part of the British-American authorities of unfriendly conduct and treaty violations affecting American fishermen, has devolved upon the President of the United States exceedingly grave and solemn responsibilities, comprehending highly important consequences to our national character and dignity, and involving extremely valuable commercial intercourse between the British possessions in North America and the people of the United States.

I understand the main purpose of your letter is to suggest that, in case recourse to the retaliatory measures authorized by this act should be invited by unjust treatment of our fishermen in the future, the object of such retaliation might be fully accomplished by "prohibiting Canadian-caught fish from entry into the ports of the United States."

The existing controversy is one in which two nations are the parties concerned. The retaliation contemplated by the act of Congress is to be enforced, not to protect solely any particular interest, however meritorious or valuable, but to maintain the national honor and thus protect all our people. In this view the violation of American fishery rights and unjust or unfriendly acts towards a portion of our citizens engaged in this business is but the occasion for action, and constitutes a national affront which gives birth to or may justify retaliation. This measure once resorted to, its effectiveness and value may well depend upon the thoroughness and extent of its application; and in the performance of international duties, the enforcement of international rights, and the protection of our citizens, this Government and the people of the United States must act as a unit, all intent upon attaining the best result of retaliation upon the basis of a maintenance of national honor and duty.

The nation seeking by any means to maintain its honor, dignity, and integrity, is engaged in protecting the rights of the people; and if, in such efforts, particular interests are injured and special advantages forfeited, these things should be patriotically borne for the public good. An immense volume of population, manufactures and agricultural productions, and the marine tonnage and railways to which these have given activity, all largely the result of intercourse between the United States and British America, and the natural growth of a full half century of good neighborhood and friendly communication, form an aggregate of material wealth and incidental relation of most impressive magnitude. I fully appreciate these things, and am not unmindful of the great number of our people who are concerned in such vast and diversified interests.

In the performance of the serious duty which Congress has imposed upon me, and in the exercise, upon just occasion, of the power conferred under the act referred to, I shall deem myself bound to inflict no unnecessary damage or injury upon any portion of our people; but I shall, nevertheless, be unflinchingly guided by a sense of what the self-respect and dignity of the nation demand. In the maintenance of these and in the support of the honor of the Government, beneath which every citizen may repose in safety, no sacrifice of personal or private interests shall be considered as against the general welfare.

Yours, very truly,

GROVER CLEVELAND.

GEORGE STEELE,

*President American Fishery Union, and others,
Gloucester, Mass.*

From this letter, to which the minority of the committee refer with great satisfaction, as a correct exposition of the duties that Congress has imposed upon the President in the enforcement of our laws of retaliation, it will be seen that the present administration will treat this

subject in the same sense that Congress has treated it, as a question of national concern, and not as a means of promoting the pecuniary interests of those who control and derive the chief benefit of our fisheries, such as the owners and outfitters of fishing fleets, and warehousemen and those engaged in salting, drying, and canning fish for the interior markets.

The hardy fishermen of the United States will, we believe, also be protected in the administration of our retaliatory laws, and other similar statutes, against the common practice that speculators in the fishing industry now resort to of placing their vessels in charge of captains and crews imported from Canada, because they can underbid our fishermen in the matter of wages.

This practice is a far more serious injury to our fishermen and to the people of the United States than would come from yielding twice the area of fishing waters that are yielded by the delimitations of this treaty, even if they were good fishing waters. It has already compelled many of our best fishermen to withdraw from this, and to seek a living in other pursuits.

XIV.

THE QUESTION OF THE BRITISH HEADLAND THEORY, AS TO SMALLER BAYS AND HARBORS ALONG THE COASTS, AND THE LIMITS OF OUR RENUNCIATION OF THE RIGHTS OF FISHING, AND THE NATURE OF THE RESTRICTIONS UPON THE RIGHTS OF OUR FISHERMEN TO ENTER THE BAYS AND HARBORS OF BRITISH NORTH AMERICA, ARE MATTERS OF DISPUTED RIGHT. ADMISSIONS MADE HERETOFORE BY AMERICAN DIPLOMATISTS, AS TO THE DIFFICULTY OF CONSTRUING, GRAMMATICALLY, THE TEXT OF THE TREATY OF 1818, GIVE COLOR TO THE BRITISH CONSTRUCTION, AND PROVE, AT LEAST, ITS SINCERITY.

It is boldly asserted, in opposition to this treaty, that there is no sort of equivalent for the 1,127 square miles of fishing waters that we concede by the fixed lines of delimitation in this treaty. This assertion impeaches both the right of the British Government and the sincerity of its claim of the headland theory, as it applies to bays more than 6 miles wide at the entrance. Nevertheless that assertion is much weakened by the official opinions of eminent American publicists, communicated to the British Government.

If the territorial claims of both Governments were sincerely asserted, as we believe they were, in reference to the fishing waters, the modification of them by mutual consent has always been held in the conduct

of nations as a good equivalent, moving from each to the other, for the concessions mutually made. This doctrine is also applied by the courts as between individuals to support agreements based on the consideration of yielding or settling disputed claims.

In contrast with the assertion of the utter want of reason in the claims of Great Britain, based on the headland theory, we find many strong declarations of our Government. Mr. Monroe, Secretary of State, on December 30, 1816, admitted that a discussion of *rights* should be avoided when mutual *concessions were necessary to bring the treaty powers to a mutual agreement*. He said to Mr. Bagot:

In providing for the accommodation of the citizens of the United States engaged in the fisheries on the coasts of His Britannic Majesty's colonies on conditions advantageous to both parties, I concur in the sentiment that it is desirable to avoid a discussion of *their respective rights*, and to proceed, in a spirit of conciliation, to examine *what arrangement will be adequate to the object*. The discussion which has already taken place between our Governments has, it is presumed, *placed the claim of each party in a just light*.

Our claim then was that we had a common right of fishery, on all the coasts, with the people of the British North American Possessions.

The British Government then claimed that the war of 1812-'15 had destroyed all our claims in such fisheries. On the 28th July, 1818, Mr. Adams, Secretary of State, instructed Mr. Gallatin and Mr. Rush as follows:

The President authorizes you to agree to an article whereby the United States will desist from the liberty of fishing, and curing, and drying fish *within the British jurisdiction generally*, upon condition that it shall be secured as a permanent right, not liable to be impaired by any future war, *from Cape Ray to Ramea Islands, and from Mount Joli, on the Salvador coast, through the straits of Belle Isle, indefinitely north, along the coast; the right to extend as well to curing and drying the fish as to fishing*.

This instruction was certainly much more liberal to the subjects of Great Britain than the first article of the treaty that was made under it. But the instruction stated the demand of the United States, and the British have a right to argue, at least, that the treaty was intended to conform to it as to the principles involved in it.

Claiming absolutely the right to enjoy these fisheries in common with the Canadians, and basing our claim upon the highest considerations of justice, we were met with the counter-claim of Great Britain, that all our fishing rights in Canadian waters were granted to us by the treaty of 1783, and that that treaty had been abrogated by war. In this dispute, which was vital, we found so much reason for an adjustment, that

our plenipotentiaries offered to Great Britain the surrender of our rights to the extent they were renounced in the treaty of 1818.

Our plenipotentiaries, in explaining the treaty to our Government, say:

It will also be perceived that we insisted on the clause by which the United States renounce their right to the fisheries relinquished by the convention, that clause being omitted in the first British counter-project.

We insisted on it with the view: (1) Of preventing any implication that the fisheries secured to us were a new grant and of placing the permanence of the rights secured and of those renounced precisely on the same footing; (2) of its being expressly stated that our renunciation extended only to the distance of three miles from the coasts.

The reasons they assigned for the importance of this point bring into serious doubt the question whether this renunciation extended to the ocean coasts, or the coasts of the bays. They are as follows:

This last point was the more important, as, with the exception of the fishery in open boats within certain harbors, it appeared from the communications above mentioned, that the fishing-ground on the whole coast of Nova Scotia is more than three miles from the shores; whilst, on the contrary, it is almost universally close to the shore on the coasts of Labrador. It is in that point of view that the privilege of entering the ports for shelter is useful, and it is hoped that, with that provision, a considerable portion of the actual fisheries ON THAT COAST (of Nova Scotia) will, notwithstanding the renunciation, be preserved.

In view of these declarations of our plenipotentiaries, who negotiated the treaty of 1818, no censure can be due to Daniel Webster for having expressed the opinion, in what is termed his "proclamation" to our fishermen, that "it would appear that, by a strict and rigid construction of this article" (of the treaty of 1818), "fishing vessels of the United States are precluded from entering into the bays," etc., and that "it was undoubtedly an oversight in the convention of 1818 to make so large a concession to England, since the United States had usually considered that these vast inlets or recesses of the ocean ought to be open to American fishermen, as free as the sea itself, to within three miles of the shore."

It was not until March, 1845, that the Bay of Fundy was declared open to our fisheries by the British Government, on condition "that they do not approach, except in cases specified in the treaty of 1818, within three miles of the entrance of any bay on the coast of Nova Scotia, or New Brunswick."

On the 17th September, 1845, the governor of Nova Scotia was in-

structed by the British Government that the permission to fish that had been conceded to us in the Bay of Fundy did not extend "to the Bay of Chaleur and other large bays of similar character on the coast of Nova Scotia and New Brunswick," and that they "*still adhere to the strict letter of the treaties,*" of which Mr. Webster afterwards spoke in his circular letter in 1852.

Many other disputations have occurred over the meaning of this treaty, as to the extent of the renunciation of our fishing rights within 3 miles of the coasts, bays, harbors, and creeks of the British North American possessions, and we are not aware that any of them have been definitively settled. Mr. Everett, minister to Great Britain, on the 25th March, 1845, replied to the letter of Lord Aberdeen, stating the action of the British Government in relation to our right to fish in the Bay of Fundy, in which Lord Aberdeen said:

The undersigned will confine himself to stating that, after the most deliberate reconsideration of the subject, and with every desire to do full justice to the United States, and to view the claims put forward on behalf of the United States citizens in the most favorable light, Her Majesty's Government are nevertheless still constrained to deny the right of United States citizens, under the treaty of 1818, to fish in that part of the Bay of Fundy which, from its geographical position, may properly be considered as included within the British possessions.

Her Majesty's Government still maintain—and in this they are fortified by high legal authority—that the Bay of Fundy is rightfully claimed by Great Britain as a bay within the meaning of the treaty of 1818, and they equally maintain the position which was laid down in the note of the undersigned, dated the 15th of April last, that with regard to the other bays on the British American coasts no United States fisherman has, under that convention, the right to fish within 3 miles of the entrance of such bays as designated by a line drawn from headland to headland at that entrance.

That treaty was then 27 years old. It is now 70. But Mr. Edward Everett, instead of recommending war as the means of meeting this flat denial of our rights, that are now considered so clear as to be indisputable, replied to Lord Aberdeen, in the same spirit that subsequently pervaded Mr. Webster's circular (above quoted), as follows:

Speaking of the attitude of the United States as to the British construction of the treaty of 1818, he says:

While they have ever been prepared to admit, that in the letter of one expression of that instrument there is some reason for claiming a right to exclude United States fishermen from the Bay of Fundy (it being difficult to deny to that arm of the sea the name of "bay," which long geographical usage has assigned to it), they have ever strenuously maintained that it is only on their own construction of the entire article that its known design in reference to the regulation of the fisheries admits of being carried into effect.

Will Mr. Everett also be censured for finding difficulties in the head-land theory of the British Government (so clearly stated by Lord Aberdeen) that staggered Mr. Webster's honest mind in 1852?

A still more conspicuous and deliberate presentation of the difficulty of arriving at a satisfactory construction of the first article of the treaty of 1818, and of the propriety and necessity of an agreement with Great Britain, as to its true meaning, is found in the letter of Mr. Evarts, Secretary of State, to Mr. Welsh, our minister to England, of September 27, 1878. Mr. Evarts says:

If the benevolent method of arbitration between nations is to commend itself as a discreet and practical disposition of international disputes, it must be by a due maintenance of the safety and integrity of the transaction, in the essential point of the award observing the limits of the submission.

But this Government is not at liberty to treat the fisheries award as of this limited interest and operation in the relations of the two countries to the important, permanent, and difficult contention on the subject of the fisheries, which for sixty years has, at intervals, pressed itself upon the attention of the two Governments and disquieted their people. The temporary arrangement of the fisheries by the treaty of Washington is terminable, at the pleasure of either party, in less than seven years from now.

And he then proceeds to argue that if this Government acquiesced in the measure of damages assessed by the Commission, our rights might be prejudiced after the twelve years' period expired. Referring, further on in the dispatch, to the historical aspect of the matter, Mr. Evarts said:

Our diplomatic intercourse has unfolded the views of successive British and American cabinets upon the conflicting claims of mere right on the one side and the other, and at the same time evinced on both sides an amicable preference for practical and peaceful enjoyment of the fisheries, compatibly with a common interest, rather than a sacrifice of such common interest to a purpose of insisting upon extreme right at a loss on both sides of what was to each the advantage sought by the contention.

In this disposition the two countries have inclined more and more to retire from irreconcilable disputations as to the true intent covered by the somewhat careless and certainly incomplete, text of the convention of 1818, and to look at the true elements of profits and prosperity in the fisheries themselves, which alone, to the one side or the other, made the shares of their respective participation therein worthy of dispute. This sensible and friendly view of the matter in dispute was greatly assisted by the experience of the provincial populations of a period of common enjoyment of the fisheries without attention to any sea-line of demarkation, but with a certain distribution of industrial and economical advantages in the prosecution and the product of this common enjoyment.

Here is almost an exact repetition of Mr. Webster's declaration of 1852 as to the unsatisfactory and uncertain character of the convention of 1818, especially to the "sea-line of demarkation."

As to the representations made by the Secretary of State to the British minister in Washington in the cases of the *Joseph Story* and *David J. Adams*, in notes dated respectively the 10th and 20th of May, 1886, the Earl of Roseberry communicated to Sir Lionel West a report of the Canadian minister of marine and fisheries, copy of which was communicated to Mr. Bayard by Mr. Harding, British *chargé d'affaires*, on August 2, 1886. From this report the following in reply to Mr. Bayard's argument for commercial privileges is here quoted:

In addition to this evidence, it must be remembered that the United States Government admitted, in the case submitted by them before the Halifax Commission in 1877, that neither the Convention of 1818 nor the Treaty of Washington conferred any right or privilege of trading on American fishermen. The British case claimed compensation for the privilege which had been given since the ratification of the latter treaty to United States fishing vessels "to transfer cargoes, to outfit vessels, by supplies, obtain ice, engage sailors, procure bait, and traffic generally in British ports and harbors."

This claim was, however, successfully resisted, and in the United States case it is maintained "that the various incidental and reciprocal advantages of the treaty such as the privileges of traffic, purchasing bait and other supplies, are not the subject of compensation, because the Treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws or the re-enactment of former oppressive statutes. Moreover, the treaty does not provide for any possible compensation for such privileges."

Still later a reply to the representations made by Mr. Phelps, at London, was written by the Canadian minister of justice. From his reply we quote the following:

But even at this barrier the difficulty in following Mr. Phelps's argument by which he seeks to reach the interpretation he desires, does not end. After taking a view of the treaty which all authorities thus forbid, he says: "Thus regarded, it appears to me clear that the words 'for no other purpose whatever,' as employed in the treaty mean for no other purpose inconsistent with the provisions of the treaty." Taken in that sense the words would have no meaning, for no other purpose would be consistent with the treaty, excepting those mentioned. He proceeds, "or prejudicial to the interests of the provinces or their inhabitants." If the United States authorities are the judges as to what is prejudicial to those interests, the treaty will have very little value; if the provinces are to be the judges, it is most prejudicial to their interests that United States fishermen should be permitted to come into the harbors on a pretext, and it is fatal to their fishery interests that these fishermen, with whom they have to compete at such a disadvantage in the markets of the United States, should be allowed to enter for supplies and bait, even for the pursuit of the deep-sea fisheries. Before concluding his remarks on this subject, the undersigned would refer to a passage in the answer on behalf of the United States to the case of Her Majesty's Government as presented to the Halifax Fisheries Commission in 1877: "The vari-

incidental and reciprocal advantages of the treaty, such as the privileges of traffic, purchasing bait and other supplies, are not the subject of compensation, because the treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws or the re-enforcement of former oppressive statutes."

If the proclamation of 1830 and the order in council of that year extended to the fishing vessels engaged in the fisheries adjacent to the British Provinces on the North Atlantic and repealed the treaty of 1818, in its restrictive parts, the position taken by the United States before the Halifax Commission was a serious error.

XV.

A PRECEDENT WAS ESTABLISHED BY PRESIDENT JACKSON IN 1834 AS TO THE WISDOM OF FORBEARANCE IN COMMERCIAL RETALIATION, OR IN MAKING REPRISALS FOR A WILLFUL VIOLATION OF TREATY OBLIGATIONS, AS TO THE MEANING OF WHICH THERE WAS NO DISPUTE, RATHER THAN DISTURB SERIOUSLY THE INTERESTS OF OUR PEOPLE.

The results of a firm but pacific policy in demanding a compliance with treaty obligations with friendly powers are strongly exemplified in the conduct of President Jackson, in reference to the treaty of July 4, 1831, with the French Government.

By that treaty France acknowledged an indebtedness to the United States of 25,000,000 francs, payable in six annual instalments, with interest, the first due February 7, 1833. The Chamber of Deputies, by a majority of eight, refused to enable the King to carry out the treaty by withholding the necessary appropriation. This was on the alleged ground that our plenipotentiary, having a superior knowledge of the facts, had obtained an undue advantage of the French negotiator in the terms of the treaty.

The reply of Mr. Livingston, that he had obtained the information on which he had acted almost exclusively on papers obtained in France, was a conclusive vindication of that good and eminent man.

This and subsequent refusals of the deputies, together with irritating expressions of the French Government, caused the withdrawal of diplomatic intercourse with that Government. And demands of the French deputies that President Jackson should withdraw certain forcible comments made by him in his messages to Congress on this subject gave him just cause for indignation.

In view, however, of the serious results that always follow reprisals, retorsions, and retaliations, even under the heat of a just indignation

for a flagrant wrong, President Jackson thus advised Congress, in his sixth annual message (1834), as to the policy of such action :

Our institutions are essentially pacific. Peace and friendly intercourse with all nations are as much the desire of our Government as they are the interest of our people. But these objects are not to be permanently secured by surrendering the rights of our citizens, or permitting solemn treaties for their indemnity in cases of flagrant wrong to be abrogated or set aside.

It is undoubtedly in the power of Congress seriously to affect the agricultural and manufacturing interests of France by the passage of laws relating to her trade with the United States. Her products, manufactures, and tonnage may be subjected to heavy duties in our ports, or all commercial intercourse with her may be suspended. But there are powerful and, to my mind, conclusive objections to this mode of proceeding. We can not embarrass or cut off the trade of France without at the same time, in some degree, embarrassing or cutting off our own trade. The injury of such a warfare must fall, though unequally, upon our own citizens, and could not but impair the means of the Government, and weaken that united sentiment in support of the rights and honor of the nation which must now pervade every bosom.

Nor is it impossible that such a course of legislation would introduce once more into our national councils these disturbing questions in relation to the tariff of duties which have been so recently put to rest ; besides, by every measure adopted by the Government of the United States, with the view of injuring France, the clear perception of right which will induce our own people, and the rulers and people of all other nations, even of France herself, to pronounce our quarrel just, will be obscured, and the support rendered to us, in a final resort to more decisive measures, will be more limited and equivocal.

There is but one point in the controversy, and upon that the whole civilized world must pronounce France to be in the wrong. We insist that she shall pay us a sum of money which she has acknowledged to be due, and of the justice of this demand there can be but one opinion among mankind. True policy would seem to dictate that the question at issue should be kept thus disencumbered, and that not the slightest pretense should be given to France to persist in her refusal to make payment by any act on our part affecting the interests of her people. The question should be left as it is now, in such an attitude that when France fulfills her treaty stipulations all controversy will be at an end.

XVI.

BY THE DELIMITATIONS FIXED IN THIS TREATY WE YIELD NOTHING THAT IS OF ANY VALUE TO OUR FISHERMEN. WHAT WE YIELD IS OF VALUE TO THE BRITISH PROVINCES AS A MEANS OF CONDUCTING THEIR LOCAL GOVERNMENTS. THE TREATY IS A JUST AND FAIR SETTLEMENT.

The treaty now before the Senate wisely and reasonably provides for the settlement of all disputed questions that have been under discussion by the two Governments, and adds greatly to the privileges of our fishermen in the British-American ports.

In a published letter of the chief counsel of the "outfitters" and owners of fishing vessels—Mr. Woodbury—he says, that "the right to fish on the coast of Nova Scotia, within the 3-mile limit, our fishermen consider of no value whatever."

The report of the Senate Committee on Foreign Relations of January 19, 1887, on the value of inshore fishing rights, and the right to take or buy bait, to which reference has been made, shows conclusively that they are of no value to our fishermen. In their report, the committee say:

From the investigations made by the committee during the last summer and fall, and as the result of the great mass of testimony taken by it and herewith returned, the committee believe it to be clear, beyond all dispute, that the right to fish within 3 miles of the Dominion shores is of no practical advantage whatever to American fishermen. The cod and halibut fishing has been for many years almost entirely carried on at long distances from the shores, in the deep waters, on banks, etc.; and it is believed that were there absolute liberty for Americans to fish, without restriction or regulation of any kind, within 3 miles of the Dominion shores, no such fisherman would ever think of going there for the purpose of catching cod or halibut.

"As regards the obtaining of bait for this class of fishing, the testimony taken by the committee in its inquiries clearly demonstrates that *there is no necessity whatever for American fishermen to resort to Canadian waters for that purpose.* Clam bait is found in immense quantities in our own waters, and there have been instances, so frequent and continuous as to amount to a habit, of the Canadian themselves resorting to American waters or ports for the purpose of obtaining it. The squid bait is found on the very banks where the fishing goes on. So that the instances would be extremely rare when any American fishing vessel would wish to resort to a Dominion port for the purpose of buying bait for this kind of fishing

"It was also proved before the committee that, with the rarest exceptions, it would be absolutely injurious to the pecuniary interests of all concerned for American vessels to resort to Dominion ports or waters, except in need or distress, for the time taken in such departures from the cod and halibut grounds, or from direct sailing to and from them, is so great that, with or without the difference of port expenses, time and money are both lost in such visits.

"In respect of the mackerel fishery the committee finds, as will be seen from the evidence referred to, *that its course and methods have of late years entirely changed.* While it used to be carried on by vessels fishing with hook and line, and sometimes near the shores, it is now almost entirely carried on by the use of immense seines, called purse-seines, of great length and descending many fathoms into the water. This gear is very expensive, and a fishing vessel does not usually carry more than one or two. The danger of fishing near the shore with such seines is so great, on account of striking rocks and reefs, that it is regarded as extremely hazardous ever to undertake it. Besides this, the large schools of mackerel, to the taking of which this great apparatus is best adapted, are almost always found more than 3 miles from land, either in great bays and gulfs or entirely out at sea.

There will be found accompanying this report (see Appendix) statements showing the total catch of mackerel during certain years and the parts of the seas where they have been taken; and it will also be seen from the evidence *that in general the mackerel fisheries by Americans in the Gulf of St. Lawrence and in the Bay of Chaleur have not been remunerative.*

In view of all these facts, well known to the great body of the citizens of the United States engaged in fisheries and embracing every variety of interest connected therewith, from the wholesale dealer, vessel owner, and outfitter, to that portion of the crew who receive the smallest share of the venture, it must be considered as conclusively established that there would be no material value whatever in the grant by the British Government to American fishermen of absolutely free fishing; and in this conclusion it will be seen, by a reference to the testimony, that all these interests fully concur.

When we consider that the inshore fisheries are of no value and that the right to take bait, or to buy it, is worse than useless to our people, the alleged surrender of fishing territory to the British in this treaty is of far less consequence to us than the surrender we made in 1854, to get these privileges, by purchasing with reciprocity the repose of the British contentions, restrictions, and exclusions, at a cost to our revenues of nearly \$10,000,000; and in 1871, by a purchase with \$5,500,000 in money, and a great sum in the loss of revenues on fish imported from Canada.

We have paid for everything we have got from Great Britain, since 1783, in connection with the fisheries. That concession was the last thing we got under our *strict demand for the right*. It is the last thing we will ever get, without compensation, until we go to war to regain our attitude of 1783.

The extract from the report of the Senate committee, above copied, shows that in such a war we would be fighting over a subject that is utterly barren of any actual value to the American people—a war in which the principles involved would have no relation to rights secured by international laws, but would relate only to the meaning of words in a treaty, that were put there by the mutual consent of two enlightened Governments.

This treaty closes the discussion on the subject of delimitation of fishing boundaries, a matter that was, in some sort, provided for in the treaty of 1854.

It presents a fair and equitable settlement of questions that have been in dispute for seventy years.

It gives our fishermen, as an equivalent for the concessions we make, largely increased privileges, as navigators, beyond the narrow and inhospitable provisions of the treaty of 1818.

And, for the first time that such a thing was ever attempted, this treaty proposes to open the door to wide commercial privileges for our fishermen, based on concessions that concern them alone.

The *modus vivendi* provided in the protocol enables our fishermen, during two fishing seasons, to compare the value of the very broad commercial privileges therein accorded with the price of annual license at \$1.50 per ton on their ships. A fisherman, outfitting with all he needs to sustain his business in Canadian ports, and having the privilege of sending his fares to our market under bond, over railroads and through such ports as would be easily reached, would be able to make so many more voyages that the annual license of \$1.50 a ton on his ship would be reduced to 30 cents or 40 cents per ton on the voyage. If the business will not bear such a tax in compensation for such privileges, it is scarcely worth a war, or a serious disturbance of good will with our neighbors, to secure these commercial advantages to our fishermen.

We venture to repeat the recommendation that the Senate will await the developments that even one fishing season will make under this protocol before taking final action on the treaty.

XVII.

THERE IS NO FAULT IN THE MANNER OF NEGOTIATING THIS TREATY, AND THE PRESIDENT HAS NOT IN ANY WAY EXCEEDED HIS CONSTITUTIONAL POWERS, OR WITHHELD ANY COURTESY DUE TO THE SENATE IN RESPECT OF THE AGENTS SELECTED BY HIM TO CONDUCT THE NEGOTIATION, OR IN THE TIME OR PLACE OF NEGOTIATING OR CONCLUDING THE TREATY.

On the other question, as to the form in which this negotiation has been conducted and the authority of the two plenipotentiaries, Mr. Putnam and Mr. Angell, to act, without a confirmation by the Senate, we rely upon the precedents cited in the annexed brief of cases that seem to conclude any question on this point.

The table hereto appended, marked C, will furnish an easy reference to all the appointments of diplomatic agents to negotiate and conclude conventions, agreements, and treaties with foreign powers since 1792. The whole number of persons appointed or recognized by the President, without the concurrence or advice of the Senate, or the express authority of Congress, as agents to conduct negotiations and conclude treaties is four hundred and thirty-eight. Three have been appointed

by the Secretary of State and thirty-two have been appointed by the President with the advice and consent of the Senate.

It will be seen that an interval of fifty-three years, between 1827 and 1880, occurred during which the President did not ask the consent of the Senate to any such appointment.

The following important appointments and many others were made when the Senate was in session :

March 2, 1793.—David Humphries. By Washington. Commissioned plenipotentiary to treat with Algiers. Congress adjourned on that day.

January 26, 1832.—Edmund Roberts. By Jackson. Commissioner to treat with Cochin China and Siam. Congress in session.

May 3, 1838.—Nathaniel Niles. By Van Buren. Special agent to negotiate treaty with Sardinia. Congress in session.

March 28, 1846.—A. Dudley Mann. By Polk. Special agent to treat with sundry States of Germany. Congress in session.

The constitutional power of the President to select the agents through whom he will conduct such business, is not affected by the fact that the Senate is or is not in session at the time of such appointment, or while the negotiation is being conducted; or the fact that he may prefer to withhold, even from the Senate, or from other countries, the fact that he is treating with a particular power, or on a special subject.

The secret-service fund that Congress votes to the Department of State annually is that from which such agents are usually paid. That is the most important reasons for such appropriations.

The following is a summary of Appendix C :

Persons appointed by the President and confirmed by the Senate :

1792. William Carmichael, William Shott, to treat with Spain.

1794. John Jay, to treat with Great Britain.

1794. Thomas Pinckney, to treat with Spain.

1796. Rufus King, to treat with Great Britain.

1797. John Q. Adams, to treat with Prussia.

1797. John Q. Adams, to treat with Sweden.

1797. C. C. Pinckney, John Marshall, Elbridge Gerry, to treat with France.

1798. John Q. Adams, to treat with Sweden.

1799. Rufus King, to treat with Russia.

1799. Oliver Ellsworth, Patrick Henry, and William Van Murray, to treat with France.

1799. W. R. Davis, *vice* Henry, as above.

1803. James Monroe and R. R. Livingston, to treat for Louisiana.

1803. Rufus King, to treat with Great Britain, northeast boundary.

1806. James Armstrong and James Bowdoin, to treat with Spain.

1814. J. Q. Adams, J. A. Bayard, Henry Clay, and Jonathan Russell, to treat with Great Britain.

Persons appointed by the President and confirmed by the Senate—Continued.

1814. Albert Gallatin, to treat with Great Britain.

1826. R. C. Anderson and John Sargeant, to treat with the American nations.

1827. Joel R. Poinsett, *vice* Anderson, above.

1880. James B. Angell, John T. Swift, and W. H. Prescott, to treat with China.

Total number, 32.

Persons appointed by the Secretary of State:

1825. Christopher Hughes, to treat with Denmark.

1826. John James Appleton, to treat with Naples.

1886. George H. Bates, to treat with Tonga.

Total number, 3.

Persons appointed by the President :

Total number, 43.

JOHN T. MORGAN,
ELI SAULSBURY,
JOSEPH E. BROWN,
H. B. PAYNE.

APPENDIX A.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas by an act of Congress of the United States, passed on the 29th day of May, 1830, it is provided that whenever the President of the United States shall receive satisfactory evidence that the Government of Great Britain will open the ports of its colonial possessions in the West Indies, on the continent of South America, the Bahama Islands, the Calicos, and the Bermuda or Somer Islands, to the vessels of the United States, for an indefinite or for a limited term; that the vessels of the United States, and their cargoes, on entering the colonial ports aforesaid, shall not be subject to other or higher duties of tonnage or impost, or charges of any other description, than would be imposed on British vessels or their cargoes, arriving in the said colonial possessions from the United States; that the vessels of the United States may import into the said colonial possessions from the United States any article or articles which could be imported in a British vessel into the said possessions from the the United States, and that the vessels of the United States may export from the British colonies aforementioned, to any country whatever, other than the dominions or possessions of Great Britain, any article or articles, that can be exported therefrom in a British vessel, to any country other than the British dominions or possessions aforesaid—leaving the commercial intercourse of the United States with all other parts of the British dominions or possessions on a footing not less favorable to the United States than it now is—that then, and in such case, the President of the United States shall be authorized, at any time before the next session of Congress, to issue his proclamation declaring that he has received such evidence, and that thereupon, and from the date of such proclamation, the ports of the United States shall be opened indefinitely, or for a term fixed, as the case may be, to British vessels coming from the said British colonial possessions, and their cargoes subject to no other or higher duty of tonnage or impost or charge of any description whatever than would be levied on the vessels of the United States or their cargoes arriving from the said British possessions, and that it shall be lawful for the said British vessels to import into the United States, and to export therefrom, any article or articles which may be imported or exported in vessels of the United States, and that the act entitled “An act concerning navigation,” passed on the 18th day of April, one thousand eight hundred and eighteen, an act supplementary thereto, passed the fifteenth day of May, one thousand eight hundred and twenty, and an act entitled “An act to regulate the commercial intercourse between the United States and certain British ports,” passed on the first day of March, one thousand eight hundred and twenty-three, shall, in such case, be suspended or absolutely repealed, as the case may require:

And whereas by the said act it is further provided that, whenever the ports of the United States shall have been opened under the authority thereby given, British vessels and their cargoes shall be admitted to an entry in the ports of the United States from the islands, provinces, or colonies of Great Britain, on or near the North American continent, and north or east of the United States:

And whereas satisfactory evidence has been received by the President of the United States that whenever he shall give effect to the provisions of the act aforesaid, the

Government of Great Britain will open for an indefinite period the ports in its colonial possessions in the West Indies, on the continent of South America, the Bahama Islands, the Caicos, and the Bermuda or Somer Islands, to the vessels of the United States, and their cargoes, upon the terms and according to the requisitions of the aforesaid act of Congress:

Now, therefore, I, Andrew Jackson, President of the United States of America, do hereby declare and proclaim that such evidence has been received by me; and that by the operation of the act of Congress passed on the 29th day of May, 1830, the ports of the United States are, from the date of this proclamation, open to British vessels coming from the said British possessions, and their cargoes, upon the terms set forth in the said act, the act entitled "An act concerning navigation," passed on the 18th day of April, 1818, the act supplementary thereto, passed the 15th day of May, 1820, and the act entitled "An act to regulate the commercial intercourse between the United States and certain British ports," passed the first day of March, 1823, are absolutely repealed, and British vessels and their cargoes are admitted to an entry in the ports of the United States from the islands, provinces, and colonies of Great Britain on or near the North American continent and north or east of the United States.

Given under my hand, at the city of Washington, the 5th day of October, in the year of our Lord 1830, and the 55th of the Independence of the United States.

ANDREW JACKSON.

By the President:

M. VAN BUREN,
Secretary of State.

CIRCULAR TO THE COLLECTORS OF CUSTOMS.

TREASURY DEPARTMENT, *October 6, 1830.*

SIR: You will perceive by the proclamation of the President herewith transmitted that from and after the date thereof the act entitled "An act concerning navigation," passed on the 18th of April, 1818; an act supplementary thereto, passed the 15th of May, 1820; and an act entitled "An act to regulate the commercial intercourse between the United States and certain British ports," passed on the 1st of March, 1823, are absolutely repealed; and the ports of the United States are opened to British vessels and their cargoes coming from the British colonial possessions in the West Indies, on the continent of South America, the Bahama Islands, the Caicos, and the Bermuda or Somer Islands; also from the islands, provinces, or colonies of Great Britain on or near the North American continent and north or east of the United States.

By virtue of the authority of this proclamation, and in conformity with the arrangement made between the United States and Great Britain, and under the sanction of the President, you are instructed to admit to entry such vessels, being laden with the productions of Great Britain, or her said colonies, subject to the same duties of tonnage and impost and other charges as are levied on the vessels of the United States or their cargoes arriving from the said British colonies. You will also grant clearances to British vessels for the several ports of the aforesaid colonial possessions of Great Britain, such vessels being laden with such articles as may be exported from the United States in vessels of the United States; and British vessels coming from the said British colonial possessions may also be cleared for foreign ports and places other than those in the said British colonial possessions, being laden with such articles as may be exported from the United States in vessels of the United States.

I am, sir, very respectfully, your obedient servant,

S. D. INGHAM,
Secretary of the Treasury.

APPENDIX B.

ORDER IN COUNCIL.

AT THE COURT AT ST. JAMES'.

November 5, 1830.

Present: The King's Most Excellent Majesty in Council.

Whereas, By a certain act of Parliament, passed in the 6th year of the reign of his late Majesty King George the Fourth, entitled "An act to regulate the trade of the British possessions abroad," after reciting that "by the law of navigation foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, goods the produce of those countries, and to export goods from such possessions to be carried to any foreign country whatever, and that it is expedient that such permission should be subject to certain conditions, it is therefore enacted that the privileges thereby granted to foreign ships shall be limited to the ships of those countries which, having colonial possessions, shall grant the like privilege of trading with these possessions to British ships, or which, not having colonial possessions, shall place the commerce and navigation of this country and of its possessions abroad upon the footing of the most favored nation, unless his Majesty, by his order in council, shall in any case deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not in all respects be fulfilled by such foreign country.

And whereas, by a certain order of his said late Majesty in council, bearing date the 27th July, 1826, after reciting that the conditions mentioned and referred to in the said act of Parliament had not in all respects been fulfilled by the Government of the United States of America, and that, therefore, the privileges so granted as aforesaid by the law of navigation to foreign ships could not lawfully be exercised or enjoyed by the ships of the United States aforesaid unless His Majesty, by his order in council, should grant the whole or any of such privileges to the ships of the United States aforesaid, his said late Majesty did, in pursuance of the powers in him vested by the said act, grant the privileges aforesaid to the ships of the said United States, but did thereby provide and declare that such privileges should absolutely cease and determine in His Majesty's possessions in the West Indies and South America, and in certain other of His Majesty's possessions abroad, upon and from certain days in the said order for that purpose appointed, and which are long since passed:

And whereas, by a certain other order of his said late Majesty in council, bearing date the 16th of July, 1827, the said last mentioned order was confirmed;

And whereas, in pursuance of the acts of Parliament in that behalf made and provided, his said late Majesty, by a certain order in council bearing date the 21st day of July, 1823, and by the said order in council bearing date the 27th day of July, 1826, was pleased to order that there should be charged on all vessels of the said United States which should enter any of the ports of His Majesty's possessions in the West Indies or America, with articles of the growth, produce, or manufacture of the said States, certain duties of tonnage and of customs therein particularly specified;

And whereas, it hath been made to appear to His Majesty in council, that the restrictions heretofore imposed by the laws of the United States aforesaid, upon British

vessels navigating between the said States and His Majesty's possessions in the West Indies and America, have been repealed, and that the discriminating duties of tonnage and of customs heretofore imposed by the laws of the said United States upon British vessels and their cargoes, entering the ports of the said States from His Majesty's said possessions, have also been repealed; and that the ports of the United States are now open to British vessels and their cargoes, coming from His Majesty's possessions aforesaid;

His Majesty doth, therefore, with the advice of his privy council, and in pursuance and exercise of the powers so vested in him, as aforesaid, by the said act so passed in the sixth year of the reign of his said late Majesty, or by any other act or acts of Parliament, declare that the said recited orders in council of the 21st day of July, 1823, and of the 27th day of July, 1826, and the said order in council of the 16th day of July, 1827 (so far as the such last mentioned order relates to the said United States), shall be, and the same are hereby, respectively revoked:

And His Majesty doth further, by the advice aforesaid, and in pursuance of the powers aforesaid, declare that the ships of and belonging to the United States of America may import from the United States aforesaid into the British possessions abroad goods the produce of those States, and may export goods from the British possessions abroad to be carried to any foreign country whatever.

And the right honorable the lords commissioners of His Majesty's treasury, and the Right Honorable Sir George Murray, one of His Majesty's principal secretaries of state, are to give the necessary directions herein, as to them may respectively appertain.

JAS. BULLER.

- A true copy:

COUNCIL OFFICE, WHITEHALL, Nov. 6th, 1830.

APPENDIX C.

Being a statement of the persons employed by the United States, in conducting negotiations, since 1750.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other office held at same time.
G. Morris.....	Oct. 13, 1750	President.....	Private agent.....	To ascertain intentions of Great Britain as to treaty of 1763, and making a treaty of commerce.	None.
William Carmichael.....	Mar. 16, 1792	President and Senate.	Commissioners plenipotentiary.	To treat with Spain as to Mississippi, boundaries, and commerce.	Charge d'affaires in Spain. Minister resident in Netherlands.
John Paul Jones.....	June —, 1792	President.....	Commissioner.....	To treat with Algiers (1) for peace and friendship; (2) for ransom of captive United States citizens.	Admiral in U. S. Navy.
David Humphreys.....	Mar. 26, 1793	do.....	Commissioner plenipotentiary.	Same as preceding.....	Minister resident in Portugal.
John Jay.....	Apr. 19, 1794	President and Senate.	Envoy extraordinary.	To treat with Great Britain as to all matters of difference, viz. (1) non-execution of treaty of 1783; (2) restitution or compensation to citizens of United States for seizure of their vessels under British instructions of June 6, 1793, &c.; (3) commerce.	Envoy extraordinary to Great Britain.
William Short.....	July 11, 1794	President.....	Commissioner plenipotentiary.	To treat with Spain as to Mississippi, boundaries, and commerce.	Minister resident in Spain.
Thomas Pinckney.....	Nov. 24, 1794	President and Senate.	Envoy extraordinary and plenipotentiary.	(1) Same as above; (2) to treat for restitution or compensation for American vessels seized by Spanish armed vessels.	Envoy extraordinary to Spain.
David Humphreys.....	Mar. 30, 1795	President.....	Commissioner plenipotentiary.	To conclude treaties of amity and commerce with Tunisia, Tripoli, and Morocco.	Minister resident in Portugal.
Rufus King.....	June 10, 1796	President and Senate.	Minister plenipotentiary.	To conclude a treaty of commerce with Great Britain and to modify or extend Jay's treaty.	Minister plenipotentiary to Great Britain.
John Quincy Adams.....	June 1, 1797	do.....	do.....	To renew and modify the treaty of amity and commerce with Prussia.	Minister plenipotentiary to Prussia.
John Quincy Adams.....	do.....	do.....	do.....	To renew and modify the treaty of amity and commerce with Sweden.	Do.
C. C. Pinckney.....	June 22, 1797	do.....	Envoys extraordinary and ministers plenipotentiary (jointly and severally).	To conclude a treaty with France in settlement of claims and all matters of difference, and also a treaty of commerce.	Envoys extraordinary and ministers plenipotentiary to France (jointly and severally).
John Marshall.....	do.....	do.....	Minister plenipotentiary.	To conclude an additional article to the treaty of amity, commerce, and navigation (1794).	Minister plenipotentiary to Great Britain.
Rufus King.....	Jan. 3, 1798	President.....	Commissioner.....	To conclude treaty of amity and commerce with Sweden.	Minister plenipotentiary to Prussia.
John Quincy Adams.....	Mar. 14, 1798	President and Senate.	Commissioner.....	.....	.....

C. C. Pinckney John Marshall Elbridge Gerry Rufus King John Quincy Adams	June 22, 1797 Jan. 3, 1798 Mar. 14, 1798	President President Commissioner	Envoy extraordinary and ministers plenipotentiary (jointly and severally). Minister plenipotentiary	To conclude a treaty with France in settlement of claims and all matters of difference, also a treaty of commerce. To conclude an additional article to the treaty of amity, commerce, and navigation (1794), modifying article V thereof. To conclude a treaty of amity and commerce with Sweden.	Ministers plenipotentiary to France (jointly and severally). Minister plenipotentiary to Great Britain. Minister plenipotentiary to Prussia.
Richard O'Brien William Eaton James L. Cathcart Rufus King Oliver Ellsworth	Dec. 18, 1798 Feb. 7, 1799 Feb. 23, 1799 June 1, 1799 Dec. 10, 1799 Dec. 31, 1799 June 10, 1802	President President and Senate do President President and Senate President do	Minister plenipotentiary Minister plenipotentiary do do Minister plenipotentiary do do do	To conclude a treaty with Tunis modifying the treaty of 1797. To negotiate a treaty of amity and commerce with Russia. To settle by treaty "all controversies between the United States and France." To take the place of Patrick Henry on the above commission. Same as preceding. To explain or modify Article VI of the treaty of 1794 with Great Britain. To conclude an additional article or articles to Article II of the treaty of 1783 with Great Britain, relative to boundaries.	(Consul-general at Algiers. Consul at Tunis. Minister plenipotentiary to Great Britain. Chief Justice of the Su- preme Court of the Uni- ted States. (None.) Minister resident in Neth- erlands. Governor of North Caro- lina. Minister plenipotentiary to Great Britain. Do. (None.) Minister plenipotentiary to France. Minister plenipotentiary to Great Britain. Do.
James Monroe Robert E. Livingston Rufus King James Monroe	Jan. 12, 1803 Jan. 25, 1803 Oct. 14, 1804	President and Senate President and Senate President	Envoy extraordinary and minister plenipotentiary. Minister plenipotentiary (jointly, or severally in case of the death of one.) Minister plenipotentiary Minister extraordinary and plenipotentiary	To conclude a treaty for the cession of Louisi- ana. To conclude a treaty defining the northeast boundary of the United States. To conclude a treaty with Spain relative to the cession of Louisiana, the cession of any other adjoining territory eastward thereof, the convention concluded August 11, 1802, between the United States and Spain; and claims of the citizens of either country against the other.	(None.) Minister plenipotentiary to France. Minister plenipotentiary to Great Britain. Do.
John Armstrong James Bowdoin	Mar. 17, 1806	President and Senate	Commissioners plenipoten- tiary and extraordinary (jointly and severally).	To conclude a treaty with Spain concerning boundaries and wrongful captures, conden- mations and injuries inflicted by either on the citizens or subjects of the other.	Minister plenipotentiary to France. Minister plenipotentiary to Spain. Minister plenipotentiary to Great Britain.
James Monroe William Pinkney	May 12, 1806	President	do	To conclude a treaty settling all matters of difference between the United States and Great Britain "relative to wrongs committed between the parties on the high seas, or other waters, and for establishing the principles of navigation and commerce between them."	Minister plenipotentiary to Great Britain.
Albert Gallatin John Quincy Adams James A. Bayard Albert Gallatin J. Q. Adams J. A. Bayard	Apr. 17, 1813 Apr. 22, 1813	do do	Envoy extraordinary and minister plenipotentiary (jointly and severally).	To conclude a treaty of peace and friendship with Great Britain under the mediation of Russia; also to conclude a treaty of commerce. To conclude a treaty of commerce with Russia.	Secretary of the Treasury. Minister plenipotentiary to Russia. Same as above.

APPENDIX C.—Continued.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other office held at same time.
J. Q. Adams	Jan. 18, 1814	President and Senate	Minister plenipotentiary and extraordinary (jointly and severally).	To conclude a treaty of commerce with Great Britain; and a treaty of peace and friendship.	Minister plenipotentiary to Russia.
J. A. Bayard	Feb. 9, 1814	do	Minister plenipotentiary and extraordinary.	To join the preceding commission.	Minister plenipotentiary to Sweden.
Jonathan Russell	Apr. 9, 1815	President	Commissioners (jointly and severally).	To negotiate a treaty of peace and friendship with Algiers.	Consul-general at Algiers.
William Shaler	Aug. 24, 1816	do	do	To negotiate a settlement of existing differences and an amendment of Article XVIII of the treaty of June 30, 1815.	Post captain, U. S. Navy. Do.
Stephen Decatur	Apr. 5, 1817	do	do	To conclude a treaty of commerce with the Netherlands.	Consul-general at Algiers. Captain, U. S. Navy.
William Shaler	Oct. 31, 1817	do	do	To conclude a treaty of commerce with Great Britain.	Envoy extraordinary and minister plenipotentiary to France.
Isaac Chauncey	May 22, 1818	do	do	To renew the convention of July 3, 1815, with Great Britain relative to commerce.	Envoy extraordinary and minister plenipotentiary to the Netherlands.
Albert Gallatin	Feb. 16, 1819	do	do	To conclude with Spain a treaty of cessation, navigation, commerce, and in settlement of all differences between the two countries.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Richard Rush	June 6, 1820	do	do	To do any act necessary to give effect to the decision of the Emperor of Russia on the question of the construction of the first article of the treaty of Ghent, referred to him for arbitration under the fifth article of the convention of 1818 by the United States and Great Britain.	Envoy extraordinary and minister plenipotentiary to France.
John Quincy Adams	Feb. 20, 1821	do	do	To conclude a treaty of navigation and commerce with France.	Envoy extraordinary and minister plenipotentiary to Great Britain. Secretary of State.
Henry Dearborn	June 25, 1822	President.	do	To conclude a treaty of commerce with Portugal.	Secretary of State.
Hugh Nelson	Apr. 21, 1823	do	do	To conclude a treaty of commerce with Spain.	Envoy extraordinary and minister plenipotentiary to Portugal.
Cesar A. Buelow	May 19, 1823	do	do	To conclude a treaty of commerce with Buenos Ayres.	Minister plenipotentiary to Spain. Minister plenipotentiary to Buenos Ayres.

Richard C. Anderson

May 22, 1823

do

To conclude a treaty of commerce with Colombia

Minister plenipotentiary to Colombia.

Henry Cabot Lodge	President	do	do	To conclude a treaty of commerce with Colombia.	Minister plenipotentiary to Colombia.
Hugh Nelson	Apr. 21, 1823	do	do	To conclude a treaty of commerce with Spain.	Minister plenipotentiary to Portugal.
Cesar A. Rodney	May 10, 1823	do	do	To conclude a treaty of commerce with Buenos Ayres.	Minister plenipotentiary to Spain. Minister plenipotentiary to Buenos Ayres.
Richard C. Anderson	May 22, 1823	do	do	To conclude a treaty of commerce with Colombia.	Minister plenipotentiary to Colombia.
Richard Rust	June 27, 1823	do	do	To conclude with Great Britain a treaty relative to commerce, the suppression of the slave trade, and the principles of maritime law and neutrality.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Henry Middleton	July 29, 1823	do	do	To conclude a treaty with Russia relative to the respective rights and claims of the two countries in respect to navigation, fishery, and commerce on the northwest coast of America; the abolition of the slave trade, and the principles of maritime war and neutrality.	Envoy extraordinary and minister plenipotentiary to Russia.
Heman Allen	Nov. 19, 1823	do	do	To conclude a treaty of commerce with Chili.	Minister plenipotentiary to Chili.
James Brown	Dec. 23, 1823	do	do	To conclude a claims convention and a treaty of commerce with France; and also a treaty for the suppression of the African slave trade.	Envoy extraordinary and minister plenipotentiary to France.
Ninian Edwards	Apr. 15, 1824	do	do	To conclude a treaty of commerce with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
Joel R. Feinett	Mar. 14, 1825	do	do	To conclude a treaty of commerce and boundaries with Mexico.	Do.
Christopher Hughes	Mar. 24, 1825	Secretary of State	do	To arrange for the settlement of claims of citizens of the United States against Denmark.	Chargé d'affaires in the Netherlands.
A. H. Everett	Apr. 27, 1825	President	do	To conclude a treaty of commerce with Spain, and also a claims convention.	Envoy extraordinary and minister plenipotentiary to Spain.
Rufus King	May 5, 1825	do	do	To conclude a claims convention with Great Britain.	Envoy extraordinary and minister plenipotentiary to Great Britain.
John James Appleton	May 12, 1825	Secretary of State	do	To arrange for the settlement of claims of citizens of the United States against the Kingdom of Naples.	None.
Richard C. Anderson	Sept. 16, 1825	President	do	To conclude a treaty of navigation with Colombia.	Minister plenipotentiary to Colombia.
Henry Clay	Nov. 22, 1825	do	do	To conclude a treaty of peace, friendship, commerce, and navigation with the Central Republic of America.	Secretary of State.
Do	Apr. 17, 1826	do	do	To conclude a treaty of peace, friendship, commerce, and navigation with Denmark.	Do.
Albert Gallatin	May 10, 1826	do	do	To conclude with Great Britain a treaty relative to commerce, boundaries, the principles of maritime law and neutrality, and the navigation of the St. Lawrence; and also a claims convention.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Richard C. Anderson John Sergeant	May 11, 1826	President and Senate	do	To conclude treaties of "peace, friendship, commerce, navigation, maritime law, neutral and belligerent rights, and all other matters interesting to the American nations" with "the ministers of that assembly, duly empowered, from all or any of the nations of America."	Minister plenipotentiary to Colombia. (None.)

APPENDIX C—Continued.

Name.	When appointed.	By whom.	Rank.	Purpose.	Other office held at same time.
John James Appleton	Jan. 23, 1827	President	.....	To conclude a treaty of commerce and navigation with Sweden.	Chargé d'affaires in Sweden.
Joel R. Poinsett	Feb. 12, 1827	President and Senate	Envoy extraordinary and minister plenipotentiary to the assembly of American ministers.	To take the place of Richard C. Anderson (deceased) at that assembly.	Envoy extraordinary and minister plenipotentiary to Mexico.
Henry Wheaton	June 4, 1827	President	.....	To conclude a claims convention with Denmark.	Chargé d'affaires in Denmark.
William Tudor	Nov. 1, 1827	.....	.....	To conclude a claims convention with Brazil.	Chargé d'affaires in Brazil.
Henry Clay	Nov. 26, 1827	do	.....	To conclude a treaty of commerce and navigation with the Hanseatic Cities of Lübeck, Bremen, and Hamburg.	Secretary of State.
William Tudor	Mar. 29, 1828	do	.....	To conclude a treaty of commerce and navigation with Brazil.	Chargé d'affaires in Brazil.
James Cooley	Apr. 8, 1828	do	.....	To conclude a treaty of commerce and navigation with Peru.	Chargé d'affaires in Peru.
Henry Clay	Apr. 18, 1828	do	.....	To conclude a treaty of peace, friendship, commerce, and navigation with Prussia.	Secretary of State.
James Barbour	July 15, 1828	do	.....	To conclude a treaty of commerce and navigation with Great Britain.	Envoy extraordinary and minister plenipotentiary to Great Britain.
William H. Harrison	Oct. 1, 1828	do	.....	To conclude a treaty of commerce and claims convention with Colombia.	Envoy extraordinary and minister plenipotentiary to Colombia.
Henry Clay	Oct. 24, 1828	do	.....	To conclude a treaty of commerce and navigation with Austria.	Secretary of State.
Samuel Larned	Dec. 29, 1828	do	.....	To conclude a treaty of commerce and navigation with Peru.	Chargé d'affaires in Peru.
Do.	Jan. 1, 1829	do	.....	To conclude a treaty of commerce with Chili.	Do.
Thomas F. Moore	June 9, 1829	do	.....	To conclude a treaty of commerce and a claims convention with Colombia.	Envoy extraordinary and minister plenipotentiary to Colombia.
William C. Rives	June 10, 1829	do	.....	To conclude a claims convention and a treaty of commerce with France.	Envoy extraordinary and minister plenipotentiary to France.
Louis McLane	June 10, 1829	do	.....	To conclude a treaty of commerce and navigation with Great Britain.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Martin Van Buren	Aug. 11, 1829	do	.....	To conclude a treaty of commerce and navigation with Austria.	Secretary of State.
Joel R. Poinsett	Aug. 25, 1829	do	.....	To conclude a treaty of boundaries and cessation with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.

To conclude a treaty of friendship and com-
None.

Commissioners

Sept. 12, 1829

Charles Rhind.
David Colley.

Martin Van Buren	Aug. 11, 1829	do	do	do	To conclude a treaty of commerce and navigation with Austria.	Secretary of State.
Joel R. Poinsett	Aug. 28, 1829	do	do	do	To conclude a treaty of boundaries and cession with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
Charles Rhind	Sept. 12, 1829	do	do	Commissioners	To conclude a treaty of friendship and commerce with Turkey.	None. Consul at Smyrna.
James Hiddle	Oct. 1, 1829	do	do	do	To conclude a treaty of commerce and a claims convention with Spain.	Envoy extraordinary and minister plenipotentiary to Spain.
C. F. Van Ness	Oct. 1, 1829	do	do	do	To conclude a treaty of commerce and navigation with the Netherlands.	Envoy extraordinary and minister plenipotentiary to the Netherlands.
William P. Preble	Oct. 17, 1829	do	do	do	To conclude (1) a treaty of commerce and boundaries and (2) a treaty of cession with Mexico.	Chargé d'affaires in Mexico.
Anthony Butler	Oct. 23, 1829	do	do	do	To conclude a treaty of commerce and navigation with Peru.	Chargé d'affaires in Peru.
Emmanuel I. West	June 18, 1830	do	do	do	To conclude with Russia treaties relative to (1) the principles of maritime war and neutrality; and (2) commerce and navigation.	Envoy extraordinary and minister plenipotentiary to Russia.
John Randolph, of Roanoke	Oct. 15, 1830	do	do	do	To conclude a treaty of commerce and navigation and a claims convention with Chili.	Chargé d'affaires in Chili.
John Hamm	Oct. 15, 1830	do	do	do	To conclude a treaty of commerce and navigation and a claims convention with Brazil.	Chargé d'affaires in Brazil.
Ethan A. Brown	Oct. 15, 1830	do	do	do	To receive from Denmark moneys due under Article 11 of the convention of March 28, 1830.	Chargé d'affaires in Denmark.
Henry Wheaton	Feb. 6, 1831	do	do	do	To conclude a claims convention and a treaty of commerce with France.	Envoy extraordinary and minister plenipotentiary to France.
William C. Rives	Mar. 18, 1831	do	do	do	To conclude a treaty of commerce and navigation with Great Britain.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Martin Van Buren	Aug. 1, 1831	do	do	do	To conclude a treaty of commerce and claims with the Kingdom of the Two Sicilies.	Chargé d'affaires in the Kingdom of the Two Sicilies.
John Nelson	Oct. 24, 1831	do	do	Commissioner	To conclude treaties of navigation and commerce with Cochín China, Siam, and Muscat.	Chargé d'affaires in Buenos Ayres.
Edmund Roberts	Jan. 29, 1832	do	do	do	To conclude a treaty of commerce and navigation with Buenos Ayres.	Chargé d'affaires in the Netherlands.
Francis Baylies	Feb. 14, 1832	do	do	do	To conclude a treaty of amity, commerce, and navigation with the Netherlands.	Envoy extraordinary and minister plenipotentiary to France.
Auguste Davaeze	Mar. 1, 1832	do	do	do	To conclude a treaty of amity, commerce, and navigation with Saxony.	Envoy extraordinary and minister plenipotentiary to Russia.
William C. Rives	Mar. 13, 1832	do	do	do	To conclude with Russia treaties concerning (1) the principles of maritime war and neutrality, and (2) commerce and navigation.	Secretary of State.
James Buchanan	Mar. 28, 1832	do	do	do	To conclude a treaty of amity, commerce, and navigation with Belgium.	Chargé d'affaires in the Netherlands.
Edward Livingston	July 13, 1832	do	do	do	To conclude a treaty of commerce with the Kingdom of the Two Sicilies.	Chargé d'affaires in the Republic of Central America.
Auguste Davaeze	Jan. 30, 1833	do	do	do	To conclude a treaty "concerning certain principles for the guidance of nations at war with each other" with the Republic of Central America.	
Charles G. Dewitt	Mar. 9, 1833	do	do	do		

APPENDIX C—Continued.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other office held at same time.
Robert B. McAfee	Mar. 30, 1833	President	.....	To conclude a treaty of amity, commerce, and navigation with New Granada.	Chargé d'affaires in New Granada.
Edward Livingston	June 4, 1833	do	.....	To conclude a treaty of commerce and navigation with France.	Envoy extraordinary and minister plenipotentiary to France.
Coraelius P. Van Ness	Dec. 5, 1833	do	.....	To conclude a treaty of commerce and a claims convention with Spain.	Envoy extraordinary and minister plenipotentiary to Spain.
Anthony Butler	Jan. 16, 1834	do	.....	To conclude an additional article to the treaty of limits of January 12, 1828, with Mexico, to extend the time for the meeting of commissioners to survey the boundary.	Chargé d'affaires in Mexico.
Edward Livingston	April 30, 1834	do	.....	To conclude a treaty with the Swiss Confederacy concerning the succession to real and personal estate.	Envoy extraordinary and minister plenipotentiary to France.
Mallon Nicholson	June 7, 1834	do	.....	To conclude a treaty of navigation and commerce with Russia.	Envoy extraordinary and minister plenipotentiary to Russia.
William Hunter	July 3, 1834	do	.....	To conclude a treaty of commerce and navigation and a claims convention with Brazil.	Chargé d'affaires in Brazil.
William Wilkins	July 22, 1834	do	.....	To conclude a treaty of navigation and commerce with Russia.	Envoy extraordinary and minister plenipotentiary to Russia.
Edmund Roberts	Mar. 20, 1835	do	.....	To conclude treaties of friendship, navigation, and commerce with Wiet Nam and Japan.	
J. G. A. Williamson	Mar. 21, 1835	do	.....	To conclude a treaty of commerce and navigation and a claims convention with Venezuela.	Chargé d'affaires in Venezuela.
L. R. Lott	July 4, 1835	do	Agent	To conclude a treaty of commerce and navigation with Morocco.	Consul at Tangier.
Henry Wheaton	Mar. 16, 1836	do	.....	To conclude with Saxony, Bavaria, Wertenberg, Hesse-Cassel, and Baden or any or either of them, treaties relative to emigration, succession to property, consuls, etc.	Chargé d'affaires in Prussia.
Andrew Stevenson	Apr. 1, 1836	do	.....	To conclude a treaty of navigation and commerce with Great Britain.	
E. B. McAfee	Apr. 1, 1836	do	.....	To conclude a treaty of commerce and claims with Ecuador.	Envoy extraordinary and minister plenipotentiary to Great Britain.
James B. Thornton	July 7, 1836	do	.....	To conclude a treaty of commerce and claims with Peru and Bolivia.	Chargé d'affaires in New Granada.
Lewis Cass	Oct. 4, 1836	do	.....	To conclude a treaty of navigation and commerce with France.	Chargé d'affaires in Peru.
					Envoy extraordinary and minister plenipotentiary to France.

George M. Dallas

Mar. 29, 1837

do

.....

To conclude a treaty of commerce and navigation

Envoy extraordinary and

James B. Thornton	July 7, 1836	do	To conclude a treaty of commerce and navigation with Peru and Bolivia.	Envoy extraordinary and minister plenipotentiary to France.
Lewis Cass	Oct. 4, 1836	do	To conclude a treaty of commerce and navigation with France.	Envoy extraordinary and minister plenipotentiary to Russia.
George M. Dallas	Mar. 29, 1837	do	To conclude a treaty of commerce and navigation with Russia.	Envoy extraordinary and minister plenipotentiary to Prussia.
Henry Wheaton	Mar. 28, 1837	do	To conclude a treaty of commerce and navigation with Prussia.	Do.
Do	June 7, 1837	do	To conclude a treaty for the removal or modification of restrictions on trade with any state or states of Germany except Austria.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Andrew Stevenson	Nov. 7, 1837	do	To conclude a treaty of commerce and navigation with Great Britain.	Envoy extraordinary and minister plenipotentiary to Prussia.
Henry Wheaton	Dec. 15, 1837	do	To conclude a treaty of commerce and navigation with Hanover, Oldenburg, Brunswick, or any state or states that may join the commercial and customs union.	Chargé d'affaires in New-Orleans.
James Semple	Jan. 9, 1838	do	To conclude a treaty of commerce and navigation with New-Orleans.	Envoy extraordinary and minister plenipotentiary to Prussia.
Henry Wheaton	Feb. 9, 1838	do	To conclude a treaty of commerce and navigation with Prussia and the other German states associated with her in a commercial or customs Union.	{ Chargé d'affaires in Central America.
C. G. De Witt, and in case of his death or absence, Charles Say	Mar. 27, 1838	do	To conclude a treaty of commerce and navigation with Central America.	Consul at Guatemala.
Henry A. Muhlenberg	Apr. 11, 1838	do	To conclude a treaty of navigation and commerce with Austria.	Envoy extraordinary and minister plenipotentiary to Austria.
John Forsyth	Apr. 13, 1838	do	To conclude a boundary treaty with Texas.	Secretary of State.
Alcée La Branche	Apr. 28, 1838	do	To conclude a claims convention with Texas.	Chargé d'affaires in Texas.
Nathaniel Niles	May 3, 1838	do	To conclude a treaty with Sardinia relative to the tobacco trade and to commerce.	Special agent to Sardinia.
John Forsyth	June 14, 1838	do	To conclude a treaty of peace, friendship, commerce, and navigation with the Netherlands.	Secretary of State.
James C. Pickett	June 15, 1838	do	To conclude (1) a treaty of amity, commerce, and navigation with Ecuador; (2) a treaty of commerce and a claims convention with Peru-Bolivia.	Chargé d'affaires in the Peru-Bolivian Confederation.
John Forsyth	July 19, 1838	do	To conclude a treaty with Mexico for the renunciation of claims of United States citizens against Mexico to the emphyteuse of the King of Prussia.	Secretary of State.
Do	do	do	To conclude a treaty with Great Britain relative to the northeastern boundary of the United States.	Do.
James Semple	Feb. 4, 1839	do	To conclude a claims convention with New-Orleans.	Chargé d'affaires in New-Orleans.
John Forsyth	Mar. 18, 1839	do	To conclude a claims convention with Mexico.	Secretary of State.
Powhatan Ellis	May 3, 1839	do	To conclude a treaty of navigation and commerce and a claims convention with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.

APPENDIX C—Continued.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other office held at same time.
Fowhatan Ellis	Feb. 29, 1840	President		To conclude an additional article to the claims convention of April 11, 1839, with Mexico, extending the time for its ratification.	Envoy extraordinary and minister plenipotentiary to Mexico.
Allen A. Hall	July 1, 1841	do		To conclude a claims convention with Venezuela.	Chargé d'affaires in Venezuela.
Daniel Jenifer	Sept. 1, 1841	do		To conclude a treaty of commerce and navigation with Austria.	Envoy extraordinary and minister plenipotentiary to Austria.
William Boulware	Sept. 17, 1841	do		To conclude a treaty of commerce and navigation with the Kingdom of the Two Sicilies.	Chargé d'affaires in the Kingdom of the Two Sicilies.
John S. Pendleton	Nov. 30, 1841	do		To conclude a claims convention with Chili.	Chargé d'affaires in Chili.
Washington Irving	Mar. 23, 1842	do		To conclude a treaty of commerce and navigation with Spain.	Envoy extraordinary and minister plenipotentiary to Spain.
William M. Blackford	May 17, 1842	do		To conclude a treaty of commerce and navigation with New Granada.	Chargé d'affaires in New Granada.
Daniel Webster	July 30, 1842	do		To conclude a treaty of peace, friendship, commerce, and navigation with Texas.	Secretary of State.
Daniel Webster	Aug. 1, 1842	do		To settle by treaty all matters in controversy or discussion between the United States and Great Britain.	Secretary of State.
Waddy Thompson	Oct. 12, 1842	do		To conclude a claims convention with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
John S. Pendleton	Jan. 14, 1843	do		To conclude a claims convention with Chili.	Chargé d'affaires in Chili.
Henry Wheaton	Mar. 16, 1843	do		To conclude an extradition treaty with Prussia and the States composing the German customs union, or any of them.	Envoy extraordinary and minister plenipotentiary to Prussia.
George H. Proffit	July 25, 1843	do		To conclude a treaty of commerce and navigation and a claims convention with Brazil.	Envoy extraordinary and minister plenipotentiary to Brazil.
Waddy Thompson	July 25, 1843	do		To conclude a claims convention with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
Allen A. Hall	Aug. 9, 1843	do		To conclude a treaty of commerce and navigation with Venezuela.	Chargé d'affaires in Venezuela.
William M. Blackford	Aug. 12, 1843	do		To conclude claims conventions with Ecuador.	Chargé d'affaires in New Granada.
Edward Everett	Oct. 9, 1843	do		To conclude a treaty relative to the boundary between the United States and the possessions of Great Britain, between the Rocky Mountains and the Pacific Ocean.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Abel P. Upshur	Oct. 24, 1843	do		To conclude an extradition treaty with France.	Secretary of State.

Henry Wheaton

Nov. 18, 1842

do

(1) To conclude treaties of commerce and navigation.

William M. Blackford	Aug. 12, 1843	do	To conclude a treaty relative to the boundary between the United States and the possessions of Great Britain, between the Rocky Mountains and the Pacific Ocean.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Edward Everett	Oct. 9, 1843	do	To conclude an extradition treaty with France.	Secretary of State.
Abel P. Upshur	Oct. 24, 1843	do		
Henry Wheaton	Nov. 18, 1843	do	(1) To conclude treaties of commerce and navigation with Mecklenburg-Schwern and Oldenburg. (2) To conclude treaties relative to emigration, succession to property, consuls, etc., with Saxony, Bavaria, Wurtemberg, Hesse, and Baden.	Envoy extraordinary and minister plenipotentiary to Prussia.
Do	Dec. 7, 1843	do	To conclude a treaty of navigation and commerce with Prussia, and the German States joined with her in a commercial and customs union.	Envoy extraordinary and minister plenipotentiary to Prussia.
Waddy Thompson, or in his absence Benjamin E. Green.	Feb. 15, 1844	do	To obtain the consent of the Mexican Government to modifications introduced by the Senate into the convention of November 30, 1843.	(Envoy extraordinary and minister plenipotentiary to Mexico. Secretary of legation in Mexico.
John C. Calhoun	Apr. 5, 1844	do	To conclude a treaty for the annexation of Texas.	Do.
Do	Apr. 12, 1844	do	To conclude an extradition treaty with France.	Envoy extraordinary and minister plenipotentiary to Brazil.
Henry A. Wise	May 25, 1844	do	To conclude a treaty of commerce and navigation and a claims convention with Brazil.	Envoy extraordinary and minister plenipotentiary to Brazil.
Wilson Shannon	June 17, 1844	do	To conclude conventions relative to claims and boundaries with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
William Brent	June 28, 1844	do	To conclude a treaty of commerce and a claims convention with the Argentine Confederation.	Chargé d'affaires in the Argentine Confederation.
William Crump	July 1, 1844	do	To conclude a claims convention with Chili.	Chargé d'affaires in Chili.
William R. King	July 26, 1844	do	To conclude an extradition treaty with the Swiss Confederacy.	Envoy extraordinary and minister plenipotentiary to France.
Caleb Cushing	Aug. 14, 1844	do	To conclude a treaty of commerce and navigation with Japan.	Commissioner to China.
John A. Brien	Aug. 24, 1844	do	To conclude a claims convention with Peru.	Chargé d'affaires in Peru.
Vespasian Ellis	Oct. 12, 1844	do	To conclude a claims convention with Venezuela.	Chargé d'affaires in Venezuela.
Dolazon Smith	Dec. 31, 1844	do	To conclude a claims convention with Ecuador.	Special agent to Ecuador.
George Brown	Jan. 10, 1845	do	To conclude a treaty of peace, friendship, and commerce with Hawaii.	Commissioner to Hawaii.
William H. Folk	Mar. 17, 1845	do	To conclude a treaty of commerce and navigation with the Kingdom of the Two Sicilies.	Chargé d'affaires in the Kingdom of the Two Sicilies.
Benjamin G. Shields	Mar. 24, 1845	do	To conclude a claims convention with Venezuela.	Chargé d'affaires in Venezuela.
Alexander H. Everett	Apr. 16, 1845	do	To conclude a treaty of navigation and commerce with Japan.	Commissioner to China.
Benjamin A. Bidlack	May 30, 1845	do	To conclude a claims convention with New Granada.	Chargé d'affaires in New Granada.
Anthony Ten Eyck	Sept. 10, 1845	do	To conclude a treaty of peace, friendship, and commerce with Hawaii.	Commissioner to Hawaii.
Thomas G. Clemson	Sept. 15, 1845	do	To conclude a treaty of commerce and navigation with Belgium.	Chargé d'affaires in Belgium.

Granada.

Envoy extraordinary and minister plenipotentiary to Great Britain.

Secretary of State.

APPENDIX C—Continued.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other office held at same time.
John Sidel	Nov. 10, 1845	President		To conclude a treaty of commerce and boundaries with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
A. Dudley Mann	Mar. 28, 1846	do	Special agent to Hanover, Oldenburg, Mecklenburg-Schwerin, and Mecklenburg-Strelitz.	To conclude with Hanover, Oldenburg, Mecklenburg-Schwerin, and Mecklenburg-Strelitz treaties of commerce and navigation.	None.
William A. Harris	Mar. 30, 1846	do		To conclude a treaty of commerce and navigation with the Argentine Confederation.	Chargé d'affaires in the Argentine Confederation.
James Buchanan	June 13, 1846	do		To conclude a treaty relative to the boundary between the United States and the Possessions of Great Britain west of the Rocky Mountains.	Secretary of State.
Benjamin A. Bidlack	Dec. 20, 1846	do		To conclude a treaty of commerce and navigation with New Granada.	Chargé d'affaires in New Granada.
Nicholas P. Trist	Apr. 17, 1847	do	Commissioner	To conclude a treaty of peace, friendship, limits, and claims with Mexico.	Chief clerk of the Department of State.
James Buchanan	May 18, 1847	do		To conclude a treaty relative to the succession to property with the Swiss Confederacy.	Secretary of State.
David Tod	June 9, 1847	do		To conclude a treaty relative to commerce and claims with Brazil.	Envoy extraordinary and minister plenipotentiary to Brazil.
Seth Barton	Jan. 7, 1848	do		To conclude a claims convention with Chile.	Chargé d'affaires in Chile.
James Buchanan	Feb. 1, 1848	do		To conclude a treaty of peace, friendship, commerce, and navigation with Peru.	Secretary of State.
Ambrose H. Sewier	Mar. 22, 1848	do	Commissioners [jointly and severally].	To conclude with Mexico a treaty modifying the treaty of Guadalupe-Hidalgo.	Commissioners (with the rank of envoy extraordinary and minister plenipotentiary) to Mexico.
Nathan Clifford					Chargé d'affaires in Bolivia.
John Appleton	Apr. 25, 1848	do		To conclude a treaty of commerce and navigation with Bolivia.	Secretary of State.
James Buchanan	Apr. 28, 1848	do		To conclude with Austria a treaty extending certain stipulations of the treaty of 27th August, 1849.	Chargé d'affaires in Ecuador.
Vanbrugh Livingston	May 2, 1848	do		To conclude a claims convention with Ecuador.	Chargé d'affaires in Ecuador.
Elijah Hise	June 3, 1848	do		(1) To conclude a treaty of commerce and claims with Guatemala; (2) to conclude a treaty of commerce with San Salvador.	Chargé d'affaires in Guatemala.
R. M. Saunders	June 17, 1848	do		To conclude with Spain a treaty for the cession of Cuba and its dependencies, including the Island of Pinar.	Envoy extraordinary and minister plenipotentiary to Spain.

Date	Name	Subject
June 17, 1848	R. M. Saunders	To conclude with Denmark a treaty relative to commerce and navigation and to "the Sound and Belt duties."
Oct. 14, 1848	R. P. Fienniken	To conclude a postal convention with Great Britain and France.
Jan. 8, 1849	George Bancroft. Richard Rush	To conclude a treaty of commerce with Hawaii.
Feb. 10, '49	Charles Eames	To conclude a treaty of commerce and claims with Guatemala, San Salvador, Nicaragua, Honduras, and Costa Rica.
Apr. 24, 1849	E. G. Squier	To conclude a treaty of commerce with (1) Hayti; (2) the Dominican Republic.
June 13, 1849	Benjamin E. Green	To conclude a treaty with Hungary on "all matters and subjects interesting to both nations."
June 18, 1849	A. Dudley Mann	To conclude a treaty of commerce with Bolivia.
June 23, 1849	A. K. McClung	To conclude a claims convention with Ecuador.
July 5, 1849	John T. Van Allen	To conclude a treaty of commerce, navigation, and claims with Chili.
Aug. 6, 1849	Balle Peyton	To conclude a treaty with Mexico "concerning a road, railroad, or canal across the Isthmus of Tehuantepec."
Sept. 17, 1849	R. P. Letcher	(1) To conclude with Siam a revision of the treaty of March 20, 1833, or any other concession of friendship, navigation, and commerce; (2) to conclude a treaty of friendship, commerce, and navigation with Annam; (3) to conclude a treaty of friendship, commerce, and navigation with Bruni.
Aug. 16, 1849	Joseph Balestier	To conclude a treaty modifying the postal convention of March 6, 1841, with New Granada.
Dec. 11, 1849	Thomas M. Foote	To conclude a claims convention with Venezuela.
Jan. 4, 1850	J. R. Steele	To conclude a consular convention with New Granada.
Mar. 1, 1850	John M. Clayton	To conclude a treaty with Great Britain relative to the Nicaragua Canal, the States of Central America, and the Mosquito coast.
Apr. 6, 1850	Do.	To conclude with the Swiss Confederation a treaty "concerning all matters and subjects interesting to both nations."
June 15, 1850	A. Dudley Mann	To conclude a treaty of commerce and navigation with Turkey.
June 28, 1850	George P. Marsh	To conclude a treaty of commerce with Peru.
July 13, 1850	John M. Clayton	To conclude an extradition treaty with Mexico.
July 19, 1850	Do.	To conclude a treaty of commerce with Peru.
Jan. 6, 1851	John R. Clay	To conclude a claims convention with Portugal.
Feb. 24, 1851	Daniel Webster	To conclude a claims convention with Portugal.

APPENDIX C—Continued.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other offices held at same time.
Charles B. Haddock	Mar. 21, 1851	President		To agree with Portugal upon the empire provided for in the convention of February 26, 1851.	Chargé d'affaires in Portugal.
John S. Pendleton	Apr. 21, 1851	do		To conclude a treaty of commerce and claims with the Argentine Confederation.	Chargé d'affaires in the Argentine Confederation.
Yelverton P. King	Apr. 21, 1851	do		(1) To conclude a claims convention with New Granada; (2) To negotiate a modification of the postal convention with New Granada of March 6, 1844.	Chargé d'affaires in New Granada.
Robert C. Schenck	Apr. 21, 1851	do		To conclude a treaty of commerce and claims with Brazil.	Envoy extraordinary and minister plenipotentiary to Brazil.
John H. Aulick	May 30, 1851	do		To conclude a treaty of friendship, commerce, and navigation with Japan.	Commodore, U. S. Navy.
R. P. Letcher	Aug. 4, 1851	do		To conclude a treaty concerning the reciprocal obligations of the United States and Mexico in regard to Indians inhabiting their respective territories, and a claims convention with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
Courtland Cushing	Sept. 10, 1851	do		To conclude a claims convention with Ecuador.	Chargé d'affaires in Ecuador.
Daniel Webster	Apr. 27, 1852	do		To conclude a consular convention with the Hanseatic Republics of Hamburg, Bremen, and Lübeck.	Secretary of State.
Robert C. Schenck	Apr. 27, 1852	do		To conclude treaties of commerce with the Argentine Republic, Uruguay, and Paraguay.	{ Envoy extraordinary and minister plenipotentiary to Brazil. Chargé d'affaires in the Argentine Confederation.
John D. Pendleton					
Daniel Webster	May 11, 1852	do		To conclude a treaty concerning commerce, navigation, and extradition with the Netherlands.	Secretary of State.
Horace H. Miller	June 8, 1852	do		To conclude a treaty of commerce with Bolivia.	Chargé d'affaires in Bolivia.
Daniel Webster	June 15, 1852	do		To conclude an extradition treaty with Prussia and the other German states associated with her.	Secretary of State.
Humphrey Marshall	Sept. 9, 1852	do		To conclude a claims convention with China.	Commissioner to China.
Alfred Conkling	Sept. 23, 1852	do		To conclude a treaty "concerning the reciprocal obligations of the United States and of Mexico in regard to Indians inhabiting their respective territories," and a claims convention with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.

Humphrey Marshall.....	Sept. 9, 1852	do	do	To conclude a treaty of friendship, commerce, and navigation with Japan	Commissioner to China.
Alfred Conkling.....	Sept. 23, 1852	do	do	To conclude a treaty "concerning the reciprocal obligations of the United States and of Mexico, in regard to Indians inhabiting their respective territories," and a claims convention with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
Matthew C. Perry.....	Nov. 11, 1852	do	do	To conclude treaty of friendship, commerce, and navigation with Japan	Captain, U. S. Navy.
J. R. Ingersoll.....	Dec. 28, 1852	do	do	To conclude a claims convention with Great Britain.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Robert C. Schenck.....	Jan. 31, 1853	do	do	To conclude treaty of commerce with Paraguay.	Envoy extraordinary and minister plenipotentiary to Brazil.
John S. Pendleton.....	do	do	do		Chargé d'affaires in the Argentine Confederation.
Thomas J. Page.....	do	do	do		Lieutenant, U. S. Navy.
Edward Everett.....	Feb. 14, 1853	do	do	To conclude copyright conventions with Great Britain and France.	Secretary of State.
Solon Borland.....	June 15, 1853	do	do	To conclude treaties of commerce with Nicaragua and Honduras.	Envoy extraordinary and minister plenipotentiary to Central America.
James Buchanan.....	July 6, 1853	do	do	To conclude an extradition treaty with Bavaria.	Envoy extraordinary and minister plenipotentiary to Great Britain.
William L. Marcy.....	July 21, 1853	do	do	To conclude a copyright convention with France.	Secretary of State.
James Buchanan.....	Sept. 12, 1853	do	do	To conclude with Great Britain a treaty concerning all matters of difference connected with Central America.	Envoy extraordinary and minister plenipotentiary to Great Britain.
John W. Dana.....	Nov. 1, 1853	do	do	To conclude a treaty of commerce with Bolivia.	Chargé d'affaires in Bolivia.
Robert M. McLane.....	Nov. 12, 1853	do	do	To conclude a treaty of commerce and navigation with China.	Commissioner to China.
James Gadsden.....	Dec. 8, 1853	do	do	To conclude an extradition treaty with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
Charles Eames.....	Mar. 8, 1854	do	do	To conclude a treaty of commerce and navigation with Venezuela.	Chargé d'affaires in Venezuela.
Pierre Soulé.....	Mar. 28, 1854	do	do	To conclude with Spain a treaty of commerce and concerning a cession of Cuba and its dependencies, including the Island of Pinar.	Envoy extraordinary and minister plenipotentiary to Spain.
David L. Gregg.....	April 4, 1854	do	do	To conclude a treaty for the cession of the Hawaiian Islands to the United States.	Commissioner in Hawaii.
James Buchanan.....	May 22, 1854	do	do	To conclude a postal convention with Great Britain.	Envoy extraordinary and minister plenipotentiary to Great Britain.
William L. Marcy.....	June 5, 1854	do	do	To conclude with Great Britain a treaty concerning the Northeastern fisheries and reciprocity with Canada.	Secretary of State.
William L. Carnean.....	June 17, 1854	do	do	To conclude a treaty of commerce and extradition with Dominican Republic.	Minister resident in Buenos Ayres.
James A. Peden.....	July 5, 1854	do	do	To conclude a treaty of commerce and also a claims convention with Buenos Ayres.	Minister resident in the Netherlands.
August Belmont.....	July 11, 1854	do	do	To conclude a consular convention with the Netherlands.	Secretary of State.
William M. Marcy.....	July 21, 1854	do	do	To conclude a treaty relative to the rights of neutrals with Russia.	

APPENDIX C—Continued.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other office held at same time.
D. A. Starkweather	July 24, 1854	President		To conclude a treaty of commerce and extradition with Chili.	Envoy extraordinary and minister plenipotentiary to Chili.
Philo White	Aug. 14, 1854	do		To conclude a treaty granting to the United States or its citizens the right to remove guano from Ecuadorian islands.	Minister resident in Ecuador.
William L. Marcy	Aug. 19, 1854	do		To conclude a treaty relative to the succession to property with Brunswick.	Secretary of State.
John H. Wheeler	Oct. 23, 1854	do		To conclude a treaty of commerce with Nicaragua.	Minister resident in Nicaragua.
James Buchanan	Nov. 1, 1854	do		To conclude a consular convention with Great Britain.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Philo White	do	do		To conclude a claims convention with Ecuador.	Minister resident in Ecuador.
Charles Eames	Dec. 9, 1854	do		To conclude a treaty with Venezuela in regard to the rights of neutrals.	Minister resident in Venezuela.
James Buchanan	Dec. 18, 1854	do		To conclude an extradition treaty with Hanover.	Envoy extraordinary and minister plenipotentiary to Great Britain.
John Y. Mason	Aug. 7, 1854	do		To conclude a treaty with France in regard to the rights of neutrals.	Envoy extraordinary and minister plenipotentiary to France.
James Buchanan	do	do		To conclude a treaty with Great Britain in regard to the rights of neutrals.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Robert Dale Owen	Nov. 29, 1854	do		To conclude a treaty with the Kingdom of the Two Sicilies in regard to the rights of neutrals.	Minister resident in the Kingdom of the Two Sicilies.
John R. Clay	Jan. 12, 1855	do		To conclude a treaty with Peru in regard to the rights of neutrals.	Envoy extraordinary and minister plenipotentiary to Peru.
James B. Bowlin	Jan. 30, 1855	do		To conclude a claims convention with New Granada.	Minister resident in New Granada.
Robert Dale Owen	Feb. 7, 1855	do		To conclude a treaty of amity, commerce, and navigation with the Kingdom of the Two Sicilies.	Minister resident in the Kingdom of the Two Sicilies.
Peter D. Vroom	Feb. 15, 1855	do		To conclude an extradition treaty with Baden.	Envoy extraordinary and minister plenipotentiary to Prussia.
Augustus C. Dodge	Apr. 19, 1855	do		To conclude, with Spain a treaty relative to the extradition of fugitives from the United States under the convention of February 11, 1854, and to claims.	Envoy extraordinary and minister plenipotentiary to Spain.

Robert Dale Owen	Feb. 7, 1855	do	To conclude a treaty of amity, commerce, and navigation with the Kingdom of the Two Sicilies.	Minister resident in the Kingdom of the Two Sicilies.
Peter D. Vroom	Feb. 15, 1855	do	To conclude an extradition treaty with Baden.	Envoy extraordinary and minister plenipotentiary to Prussia.
Augustus C. Dodge	Apr. 19, 1855	do	To conclude with Spain a treaty relative to commerce, to the debts due citizens of the United States under the convention of February 1, 1853, and to settle.	Envoy extraordinary and minister plenipotentiary to Spain.
William Translake	Apr. 26, 1855	do	To conclude a treaty of commerce and extradition with Peru.	Envoy extraordinary and minister plenipotentiary to Brazil.
August Belmont	Apr. 30, 1855	do	To conclude an extradition treaty with the Netherlands.	Minister resident in the Netherlands.
Carroll Spence	May 24, 1855	do	To conclude a treaty of commerce with Persia.	Minister resident in Turkey.
William L. Marcy	July 16, 1855	do	To conclude a treaty of commercial reciprocity with Hawaii.	Secretary of State.
Townsend Harris	Sept. 8, 1855	do	To conclude a treaty of commerce with Japan and Siam.	Consul-general in Japan.
Peter Parker	Sept. 25, 1855	do	To conclude a treaty of commerce and navigation with China.	Commissioner to China.
Jonathan Elliot	Oct. 5, 1855	do	To conclude a treaty of commerce with the Dominican Republic.	Commercial agent at St. Domingo.
Philo White	Dec. 3, 1855	do	To conclude a treaty relative to the rights of neutrals.	Minister resident in Ecuador.
John L. O'Sullivan	July 22, 1856	do	To conclude a treaty with Portugal "asserting the principle of respect for private property at sea in time of war as to vessels as paid by civil sea methods, and to be in force on land."	Minister resident in Portugal.
George M. Dallas	Sept. 25, 1856	do	To conclude a treaty relative to the rights of neutrals.	Envoy extraordinary and minister plenipotentiary to Great Britain.
James E. Bowlin	Dec. 2, 1856	do	To conclude a treaty with New Granada with reference to transit across the Isthmus of Panama.	Minister resident at New Granada.
Isaac E. Morse	Jan. 26, 1857	do	To conclude a treaty with Great Britain "concerning the principles of maritime law which shall be applied and adherent rights at sea."	Envoy extraordinary and minister plenipotentiary to Great Britain.
George M. Dallas	Mar. 21, 1857	do	To conclude a treaty with Denmark relative to the rights of neutrals.	Secretary of State.
Lewis Cass	Apr. 22, 1857	do	To conclude a treaty of commerce, navigation, and claims with China.	Envoy extraordinary and minister plenipotentiary to China.
William B. Reed	July 18, 1857	do	To conclude a treaty with Mexico relative to boundaries, claims, and the right of way across the Isthmus of Tehuantepec.	Envoy extraordinary and minister plenipotentiary to Mexico.
John Forsyth	Nov. 17, 1857	do	To conclude a treaty of commerce, navigation, and claims with China.	Secretary of State.
Lewis Cass	Aug. 18, 1858	do	To conclude a treaty with Bolivia for her accession to the treaty of July 10, 1853, for the free navigation of the rivers Parana and Paraguay.	Minister resident in Bolivia.
James E. Bowlin	Sept. 30, 1858	do	To conclude a treaty with Paraguay relative to compensation of the United States against Paraguay, to commerce, and to claims.	Commissioner to Paraguay.

APPENDIX C—Continued.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other place held at same time.
William Preston	Dec. 13, 1857	President		To conclude with Spain a treaty of commerce and consular rights, the vessel of the United States and its dependencies, including the islands of Cuba, Porto Rico, and the Virgin Islands.	Envoy extraordinary and minister plenipotentiary to Spain.
Robert M. McLane	Mar. 7, 1859	do		To conclude a treaty with Mexico relative to the navigation of the Rio Grande, and the right of way across the Isthmus of Tehuantepec.	Envoy extraordinary and minister plenipotentiary to Mexico.
John Y. Mason	June 11, 1859	do		To conclude a treaty of commerce and navigation with France.	Envoy extraordinary and minister plenipotentiary to France.
Alexander Doolittle	Aug. 16, 1859	do		To negotiate a claims convention with Nicaragua.	Minister resident in Nicaragua.
Charles J. Faulkner	Jan. 20, 1860	do		To conclude a treaty of commerce and navigation with France.	Envoy extraordinary and minister plenipotentiary to France.
Edward A. Turpin	Mar. 17, 1860	do		To conclude a treaty of commerce and navigation with Venezuela.	Minister resident in Venezuela.
John B. Clay	Apr. 26, 1860	do		To conclude a claims convention with Peru.	Envoy extraordinary and minister plenipotentiary to Peru.
Norman B. Judd	Apr. 26, 1861	do		To conclude a treaty of commerce, the principles of maritime law, and other matters, and to conclude a claims convention with Prussia.	Envoy extraordinary and minister plenipotentiary to Prussia.
James S. Pike	May 16, 1861	do		To conclude a treaty of commerce, the principles of maritime law, and other matters, and to conclude a claims convention with Prussia.	Minister resident in the Netherlands.
Thomas Corwin	June 24, 1861	do		To conclude a treaty of commerce, the principles of maritime law, and other matters, and to conclude a claims convention with Mexico.	Envoy extraordinary and minister plenipotentiary to Mexico.
William H. Seware	July 10, 1861	do		To conclude an additional article relative to the navigation of the Rio Grande, and to conclude a claims convention with Hanover for the protection of the same.	Secretary of State.
Norman B. Judd	July 25, 1861	do		To conclude a claims convention with Peru.	Envoy extraordinary and minister plenipotentiary to Peru.
Christopher Robinson	Nov. 20, 1861	do		To conclude a claims convention with Costa Rica.	Envoy extraordinary and minister plenipotentiary to Costa Rica.
Charles N. Riote	Mar. 31, 1862	do		To conclude a treaty of commerce with Prussia.	Minister resident in Prussia.
William H. Seward	Apr. 4, 1862	do		To conclude a treaty of commerce with Prussia.	Secretary of State.
James E. Byrne	Apr. 24, 1862	do		To conclude a treaty of commerce with Prussia.	Minister resident in Prussia.

Norman B. Judd	July 25, 1861	do	To conclude a trans-convention with Peru	Minister resident in Ecuador	Do	Minister resident in Ecuador
Christopher Robinson	Nov. 20, 1861	do	To conclude a trans-convention with Peru	Commissioner and consul-general to Haiti	Do	Minister resident in Haiti
Charles N. Ely	Mar. 31, 1862	do	To conclude a postal-convention with Costa Rica	Minister resident in Costa Rica	Do	Minister resident in Costa Rica
William H. Seward	Apr. 4, 1862	do	To conclude a postal-convention with Costa Rica	Secretary of State	Do	Secretary of State
James E. Hann	Apr. 22, 1862	do	To conclude a postal-convention with Costa Rica	Minister resident in Porto Rico	Do	Minister resident in Porto Rico
Frederick Hassaurek	Oct. 9, 1862	do	To conclude a trans-convention with Ecuador	Minister resident in Ecuador	Do	Minister resident in Ecuador
B. F. Whidden	Dec. 30, 1862	do	To conclude a treaty of amity and commerce with Haiti	Commissioner and consul-general to Haiti	Do	Minister resident in Haiti
Henry S. Sanford	Mar. 2, 1863	do	To conclude a treaty of friendship, commerce, and navigation with Belgium for the capitalization of the Seneca canal	Minister resident in Belgium	Do	Minister resident in Belgium
Thomas H. Clay	May 15, 1863	do	To conclude a treaty of friendship, commerce, and navigation with Honduras	Minister resident in Honduras	Do	Minister resident in Honduras
William H. Seward	June 23, 1863	do	To conclude a treaty of friendship, commerce, and navigation with Honduras	Secretary of State	Do	Secretary of State
Do			To conclude a trans-convention with Colombia	Minister resident in Colombia	Do	Minister resident in Colombia
George P. Marsh	Feb. 10, 1864	do	To conclude a trans-convention with Colombia	Minister resident in Colombia	Do	Minister resident in Colombia
Andrew B. Dickinson	Aug. 15, 1864	do	To conclude a treaty of friendship, commerce, and navigation with Nicaragua	Minister resident in Nicaragua	Do	Minister resident in Nicaragua
Jesse H. McMath	Nov. 1, 1864	do	To conclude a treaty concerning Cape Spartel	Minister resident in Morocco	Do	Minister resident in Morocco
E. D. Culver	Sept. 30, 1865	do	To conclude a trans-convention with Venezuela	Minister resident in Venezuela	Do	Minister resident in Venezuela
J. Somers Smith	Dec. 13, 1866	do	To conclude a treaty of commerce with the Dominican Republic	Minister resident in the Dominican Republic	Do	Minister resident in the Dominican Republic
F. W. Seward	Dec. 15, 1866	do	To conclude a treaty of commerce with the Dominican Republic	Minister resident in the Dominican Republic	Do	Minister resident in the Dominican Republic
William H. Seward	Jan. 8, 1867	do	To conclude a trans-convention with Prussia	Minister resident in Prussia	Do	Minister resident in Prussia
Edward M. McCook	Feb. 1, 1867	do	To conclude a trans-convention with Prussia	Minister resident in Prussia	Do	Minister resident in Prussia
J. Somers Smith	Feb. 27, 1867	do	To conclude a trans-convention with Prussia	Minister resident in Prussia	Do	Minister resident in Prussia
William H. Seward	Mar. 18, 1867	do	To conclude a trans-convention with Prussia	Minister resident in Prussia	Do	Minister resident in Prussia
John A. Kasson	Apr. 6, 1867	do	To conclude a postal-convention with France	Minister resident in France	Do	Minister resident in France
George H. Seaman	May 25, 1867	do	To conclude a treaty for the cession of the Danish West Indies	Minister resident in the Danish West Indies	Do	Minister resident in the Danish West Indies
Andrew B. Dickinson	June 15, 1867	do	To negotiate for the extension of the time for the ratification of the treaty of March 16, 1859, with Nicaragua	Minister resident in Nicaragua	Do	Minister resident in Nicaragua
R. B. Van Valkenburg	July 15, 1867	do	To conclude an additional article to the convention of October 22, 1854, with Japan	Minister resident in Japan	Do	Minister resident in Japan
William H. Seward	Jan. 25, 1868	do	To conclude an additional article to the treaty of March 6 and 12, 1852, with Russia	Secretary of State	Do	Secretary of State
Do	Feb. 8, 1868	do	To conclude a consular convention with Italy	Do	Do	Do

* Similar powers were sent to our representatives at Vienna, Turin, Copenhagen, and Brussels.

† This seems to be the power under which Corwin concluded a postal and extradition treaty on December 10, 1861.

APPENDIX C—Continued.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other office held at same time.
George Barrett	Feb. 13, 1868	President		To conclude treaties of commerce, navigation, extradition and naturalization with Prussia and the North German Confederation, the Kingdom of Saxony, the Kingdom of Württemberg, the Kingdom of Baden and the Grand Duchy of Baden, and to the treaty of commerce, navigation and extradition with the North German Confederation.	Envoy extraordinary and minister plenipotentiary to Prussia.
Do.	May 25, 1868	do			do.
George P. Marsh	June 3, 1868	do		To conclude a naturalization treaty with Italy.	Envoy extraordinary and minister plenipotentiary to Italy.
Henry S. Sanford	June 25, 1868	do		To conclude treaties with Belgium concerning extradition, naturalization and consuls.	Minister resident in Belgium.
George F. Spauld	June 27, 1868	do		To conclude a claims convention with Greece.	Consul general at Athens.
William R. Seward	June 29, 1868	do		To conclude treaties concerning consuls and naturalization with Mexico.	Secretary of State.
Do.	June 30, 1868	do		To conclude a claims convention with Mexico.	do.
Do.	Aug. 18, 1868	do		To conclude an additional article to the treaty with Denmark, signed October 1, 1867.	do.
Henry M. White	Aug. 18, 1868	do		To conclude a naturalization treaty with Norway.	Envoy extraordinary and minister plenipotentiary to Norway.
J. J. Bartlett	Sept. 22, 1868	do		To conclude a naturalization treaty with Sweden and Norway.	Minister resident in Sweden.
E. J. Corrie	Oct. 2, 1868	do		To conclude a naturalization treaty with Turkey.	Minister resident in Turkey.
John C. Hall	Oct. 13, 1868	do		To conclude a naturalization treaty with Spain.	Envoy extraordinary and minister plenipotentiary to Spain.
Do.	Dec. 4, 1868	do		To conclude a naturalization treaty with Portugal.	Secretary of State.
Do.	Dec. 22, 1868	do		To conclude a claims convention with Greece.	do.
Do.	Jan. 7, 1869	do		To conclude a treaty of commerce, navigation and extradition with the Kingdom of Saxony, the Kingdom of Württemberg, the Kingdom of Baden and the Grand Duchy of Baden, and to the treaty of commerce, navigation and extradition with the North German Confederation.	Secretary of State.
J. Sullivan	Mar. 2, 1869	do		To conclude a treaty of commerce, navigation and extradition with the Kingdom of Saxony, the Kingdom of Württemberg, the Kingdom of Baden and the Grand Duchy of Baden, and to the treaty of commerce, navigation and extradition with the North German Confederation.	Minister resident in Saxony.
Hamilton Fish	Apr. 14, 1869	do		To conclude a trade-marks convention with France.	Secretary of State.
John Jay	Apr. 21, 1869	do		To conclude a naturalization treaty with Austria.	Envoy extraordinary and minister plenipotentiary to Austria.

John Lathrop Motley.....	Jan. 7, 1869	do	To extend the time for the exchange of the ratifications of the consular convention of December 5, 1868, with Belgium.	Envoy extraordinary and minister plenipotentiary to Great Britain.
Henry S. Sanford.....	June 12, 1869	do	To conclude a trade-marks convention with Austria.	Minister resident in Belgium.
George H. Yeaman.....	July 8, 1869	do	To extend the time for the ratification of the consular convention of December 5, 1868, with Belgium.	Minister resident in Denmark.
Thomas H. Nelson.....	June 9, 1869	do	To conclude a trade-marks convention with Austria.	Envoy extraordinary and minister plenipotentiary to Mexico.
E. B. Washburne.....	July 30, 1869	do	To conclude a trade-marks convention with Austria.	Envoy extraordinary and minister plenipotentiary to France.
George Bancroft.....	Aug. 10, 1869	do	To extend the time for the ratification of the consular convention of December 5, 1868, with Belgium.	Envoy extraordinary and minister plenipotentiary to Prussia.
James R. Partridge.....	Aug. 18, 1869	do	To negotiate with Venezuela concerning the deferred payments under the claims convention of April 25, 1866.	Minister resident in Venezuela.
S. A. Hurlbut.....	Sept. 4, 1869	do	To conclude a trade-marks convention with Austria.	Minister resident in Colombia.
Charles E. De Long.....	Sept. 23, 1869	do	To conclude a trade-marks convention with Austria.	Minister resident in Japan.
Henry T. Blow.....	Sept. 23, 1869	do	To conclude a trade-marks convention with Austria.	Envoy extraordinary and minister plenipotentiary to Brazil.
Hamilton Fish.....	Oct. 9, 1869	do	To extend the time for the ratification of the treaty of October 24, 1867, with Denmark.	Secretary of State.
Do.....	Oct. 15, 1869	do	To conclude a protocol relative to the failure of the Mexican Claims Commission, to meet punctually at the time provided by the convention of July 4, 1868.	Do.
George Bancroft.....	Dec. 21, 1869	do	To conclude a trade-marks convention with Austria.	Envoy extraordinary and minister plenipotentiary to Prussia.
Henry T. Blow.....	Jan. 21, 1870	do	To conclude a trade-marks convention with Austria.	Envoy extraordinary and minister plenipotentiary to Brazil.
J. B. Blair.....	Jan. 22, 1870	do	To conclude a trade-marks convention with Austria.	Minister resident in Costa Rica.
George Bancroft.....	Feb. 8, 1870	do	To conclude a trade-marks convention with Austria.	Envoy extraordinary and minister plenipotentiary to Prussia.
C. N. Klotte.....	Feb. 19, 1870	do	To conclude a trade-marks convention with Austria.	Minister resident in Nicaragua.

* Similar powers to our representatives in Guatemala, Honduras, Nicaragua, and Salvador.

[illegible]

Name	Date	Signature	Position
Isidor W. Avery	Jan. 4, 1877	Isidor W. Avery	Commercial agent at San Domingo.
Thomas Ballie	Oct. 3, 1877	Thomas Ballie	Minister resident in Salvador.
M. J. Cramer	Nov. 4, 1877	M. J. Cramer	Minister resident in Denmark.
Hamilton Fish	May 3, 1877	Hamilton Fish	Secretary of State.
E. D. Bassett	Oct. 6, 1877	E. D. Bassett	Minister resident and consul-general in Hayti.
Hamilton Fish	Nov. 24, 1877	Hamilton Fish	Secretary of State.
John Jay	Nov. 26, 1877	John Jay	Envoy extraordinary and minister plenipotentiary to Austria.
George H. Baker	May 27, 1877	George H. Baker	Minister resident in Turkey.
Daniel E. Sickle	June 1, 1877	Daniel E. Sickle	Envoy extraordinary and minister plenipotentiary to Spain.
George H. Baker	Aug. 1, 1877	George H. Baker	Minister resident in Turkey.
Cornelius A. Logan	Nov. 2, 1877	Cornelius A. Logan	Envoy extraordinary and minister plenipotentiary to Chili.
Marshall Davis	Dec. 12, 1877	Marshall Davis	Envoy extraordinary and minister plenipotentiary to Russia.
George Williamson	Jan. 16, 1878	George Williamson	Minister resident in Guatemala.
Hamilton Fish	Feb. 5, 1878	Hamilton Fish	Secretary of State.
William L. Scruggs	Feb. 27, 1878	William L. Scruggs	Minister resident in Colombia.
Hamilton Fish	Nov. 19, 1878	Hamilton Fish	Secretary of State.
Hamilton Fish	Jan. 22, 1879	Hamilton Fish	Do.
Hamilton Fish	Mar. 8, 1879	Hamilton Fish	Do.
Horace Maynard	May 21, 1879	Horace Maynard	Minister resident in Turkey.
Hamilton Fish	Apr. 27, 1879	Hamilton Fish	Secretary of State.

Printed under authority of the Senate, February 10, 1881.

APPENDIX C--Continued.

Name.	When appointed.	By whom.	Rank.	Purpose.	Other office held at same time.
Caleb Cushing.	Nov. 28, 1856.	President.	.....	To conclude an extradition treaty with Spain.	Envoy extraordinary and minister plenipotentiary to Spain.
William M. Evarts.	May 7, 1878.	do.	.....	To conclude a consular convention with Italy.	Secretary of State.
William M. Evarts.	May 22, 1878.	do.	.....	To conclude a consular convention with the Netherlands.	Do.
Henry W. Hilliard.	July 18, 1875.	do.	.....	To conclude a trademarks convention with Brazil.	Envoy extraordinary and minister plenipotentiary to Brazil.
William M. Evarts.	July 25, 1878.	do.	.....	To conclude a treaty with Japan for "the revision of the existing treaties of commerce between the United States and Japan."	Secretary of State.
James Birney.	Dec. 5, 1879.	do.	.....	To extend the time for the ratification of the consular convention of May 23, 1878, with the Netherlands.	Minister resident in the Netherlands.
William M. Evarts.	Jan. 13, 1880.	do.	.....	To conclude a claims convention with France.	Secretary of State.
John A. Bingham.	Jan. 20, 1880.	do.	.....	To conclude with Japan a convention for "the reimbursement of certain unpaid expenses which may be incurred by either country in consequence of the shipwreck on its coast of the vessels of the other."	Envoy extraordinary and minister plenipotentiary to Japan.
Ernest Diehman.	Jan. 29, 1880.	do.	.....	To conclude an extradition treaty with Colombia.	Minister resident in Colombia.
William M. Evarts.	Mar. 9, 1880.	do.	.....	To conclude a consular convention with Belgium.	Secretary of State.
William M. Evarts.	May 26, 1880.	President.	.....	To conclude an extradition treaty with the Netherlands.	Secretary of State.
James B. A. McGill. John F. Swift. William Henry Trescott.	June 4, 1880.	President and Senate.	Commissioners plenipotentiary. Severally and jointly. [any two of them.]	To conclude a treaty with China for the "settlement of such matters of interest as are now pending between the two Governments."	Envoy extraordinary and minister plenipotentiary to China.
William M. Evarts.	Feb. 1, 1881.	President.	.....	To conclude a convention supplementary to the consular convention of May 8, 1878, with Italy.	Secretary of State.
Eugene Schuyler.	Mar. 2, 1881.	do.	.....	To conclude with Roumania a treaty of navigation and commerce, a consular convention, and a treaty concerning trademarks.	Charge d'affaires in Roumania.
John A. Hallerman.	Mar. 29, 1881.	do.	.....	To conclude a consular convention supplementary to the treaty of May 29, 1856, with Siam.	Consul at Bangkok.
Eugene Schuyler.	Nov. 24, 1881.	do.	.....	To conclude with Servia a treaty of commerce and navigation, a consular convention, and a treaty concerning trademarks.	Charge d'affaires and consul-general at Bucharest.

APPENDIX C—Continued.

Name.	When appointed.	By whom.	Rank.	Purposes.	Other office held at same time.
George H. Bates	July —, 1886	Secretary of State	.....	To conclude a treaty of	Special commissioner to
Thomas F. Bayard	Mar. 25, 1887	President	.....	To conclude an extradition treaty with Russia.	Secretary of State.
Do	May 31, 1887	do	.....	To conclude an extradition treaty with the Netherlands.	do.
C. W. Buck	June 24, 1887	do	.....	To conclude a treaty of friendship, navigation, and commerce and a claims convention with Peru.	Envoy extraordinary and minister plenipotentiary to Peru.

APPENDIX D.

FISHING-GROUNDS.

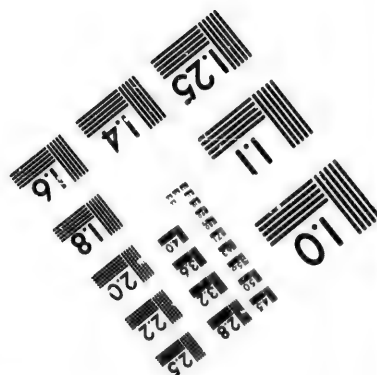
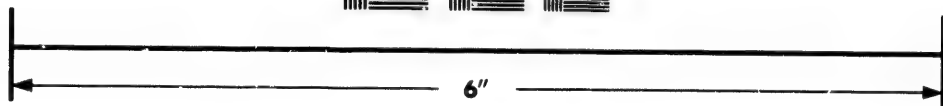
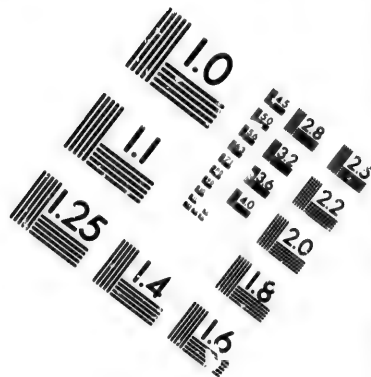
Under the treaty of 1818.

	Marine sq. miles.
The 3 marine mile limit, which is the claim of American fishermen, is in blue, and equals	16,424
Of this area there is in bays, cut off by the 3-mile limit	6,599
And outside of the 3-mile limit	9,825
Making a total, as stated, of	16,424
The claims of Canadian fishermen, from headland to headland, would add to the area claimed by American fishermen	6,164
Making the Canadian claim	22,588
As against American claim of	16,424

Under the proposed treaty of 1888.

The American fishermen's claim is conceded to Canada, and is equal to.....	16,424
And in lieu of the 6,164 marine square miles, from headland to headland, as claimed by the Canadians, the Americans concede to them as follows:	
First. At bays of 10 miles or less in width—	
In Newfoundland, 8 bays of	200
In New Brunswick, 8 bays of	67
In Prince Edward Island, 3 bays of	18
In Cape Breton, 2 bays of	13
In Nova Scotia, 11 bays of	85
In all, 32 bays of (colored brown)	383
Second. At the bays named between lines 63 and 80, Article IV, proposed treaty, 1888 (colored solid red):	
At Baie Chaleur, New Brunswick	500
At Bay of Miramichi, New Brunswick	23
At Egmont's Bay, Prince Edward Island	20
At St. Anne's Bay, Nova Scotia	5
At Fortune Bay, Newfoundland	160
At Sir Charles Hamilton's Sound, Newfoundland	2
In all, at 6 bays	710





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1.5 2.8 2.5
1.2 1.8 2.2
1.6 2.0

10

Marine
Sq. miles.

Third. At bays named between lines 61 and 93 in Article IV, of proposed treaty of 1888 (colored in parallel red lines):

At Barrington Bay, Nova Scotia	2
At Chedebucto and St. Peter's Bays, Nova Scotia	18
At Mira Bay, Nova Scotia	7
At Placentia Bay, Newfoundland	7

In all, 4 bays	34
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This gives a total concession by Americans under the proposed treaty of 1888 of

1, 127

In lieu of a total concession by the Canadians from their headland to headland claim, of

5, 037

2
18
7
7
34

1, 127
5, 037

APPENDIX E.

THE PENDING TREATY.

REVIEW OF THE FISHERIES NEGOTIATIONS BY W. L. PUTNAM—HISTORICAL AND EXPLANATORY—FROM THE BEGINNING OF THE CONTROVERSY TO THE PRESENT TIME—WHAT THE TREATY UNDERTAKES TO DO—HOSTILE CRITICISM MET.

We give below a valuable review of "The Fisheries Negotiations—Historical and Explanatory," by the Hon. William L. Putnam, of the commissioners who framed the pending treaty. The paper was prepared for the Portland Fraternity Club and read at a recent meeting. It is an important contribution to the present discussion, and meets adverse criticisms which have been made upon the work of the commission.

Concerning the provisions of the convention of 1818, that our fishermen may enter the bays or harbors of Her Majesty's dominions in Newfoundland and eastern Canada "for the purposes of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purposes whatever," and are liable to "such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges" reserved to them, confusion has arisen in Canada and also in the United States—on the Canadian side by converting this limitation of a guaranteed privilege into a universal one, and on our side by overlooking the indubitable fact that the practice of nations recognizes a broad line between fishing vessels and ordinary merchant vessels, granting to each class privileges not possessed by the other. From a time at least as early as A. D. 1826 to the present the claim of Nova Scotia, and afterwards of Canada, has been inflexible, that a fishing vessel is *sui generis*, and, if foreign, has no privileges within British bays and harbors, except those specifically authorized by some law of Great Britain or of her dominions, or by treaty, or by the strictest rules of humanity; though at times this claim has lain dormant in part, and Great Britain herself has not quite countenanced its practical exercise to its full extent. During all this period this construction, although often complained of by the United States, never has been practically overthrown by us in any particular.

Very soon after the ratification of the convention of 1818 the British Parliament passed the statute, chapter 38, George III, which condemned to forfeiture vessels of the United States, and of all other nations foreign to Great Britain, fishing or "preparing to fish" within the prohibited waters. These words "preparing to fish" found in this early act have been the cause of many troubles, and are susceptible of a variety of construction. They have been found in every provincial and Dominion statute relating to this matter passed at different periods, four or five in all; and they have received the sanction of long practical acquiescence on the part of the United States, and, we may also add, the full and cordial approval of so distinguished an American law writer as Professor Pomeroy. On the 12th of March, 1836, nearly one year before President Jackson went out of office, there was passed the act of Nova Scotia, the model of all the legislation since enacted, at which is aimed the thirteenth article of the treaty just negotiated. This act was specially validated by royal orders in council, and provided that local officers might

seize and bring into port vessels hovering on the coasts of Nova Scotia, and repeated the penalty of forfeiture for those fishing or "preparing to fish" within the prescribed waters. It also provided that no person should be admitted to claim the vessel seized without first giving security for costs not exceeding 60 pounds. It also threw on the owner the burden of proof in any suit touching the illegality of seizure. It so hampered the right of action for unjustifiable arrests of vessels as to render it substantially worthless; and it was so extreme in its provisions that the vessel could not be bailed without the consent of the person seizing her. All these provisions have been continued in every statute of the Dominion from that time to the present.

In A. D. 1838, 1839, and 1840, during the administration of Mr. Van Buren, and while John Forsyth was Secretary of State and Levi Woodbury Secretary of the Treasury, sixteen of our vessels were proceeded against at Halifax and all confiscated except one. During the first year of the next administration, and while Webster was Secretary of State, seven were seized and proceeded against, only two of which were restored. These prosecutions were under this statute of 1836. It is not certain that Mr. Forsyth knew of its existence until near the close of his term of office, when he made an earnest remonstrance against it. The records also fail to show that Webster in any way took notice of it; although after Webster retired from the Cabinet, Mr. Everett, while minister at London, under instructions from Mr. Upshur, then Secretary of State, reiterated the complaints of Mr. Forsyth. When Webster again became Secretary of State, and not long before he died, he made the famous speech at Marshfield, in which he said:

"It is not to be expected the United States would submit their rights to be adjudicated in the petty tribunals of the provinces, or that we shall allow our own vessels to be seized by constables or other petty officials, and condemned by the municipal courts of Quebec, Newfoundland, New Brunswick, or Canada."

Notwithstanding this, from the time the statute was enacted in A. D. 1836 till the present negotiations, not only was its repeal or modification not secured by the United States, and not only contrary to the phrases of Webster did the United States submit the rights of their vessels to be adjudicated in the tribunals of the provinces and allow them to be seized by provincial constables and other provincial petty officers, but in A. D. 1868, and afterwards in A. D. 1870, the Dominion, without protest from us, re-enacted and intensified the law of 1836 by statutes ever since in force.

The disputes covering this first period from A. D. 1836 to A. D. 1854 were confined mainly to four questions:

(1) Whether great bays, like those of Chaleur and Fundy, were bays of the British dominions.

(2) Whether—and this was a broader question, though not perhaps wholly distinct—Great Britain could lawfully run a line from headland to headland, so as to shut in great bays like that of Prince Edward Island and that on the east coast of Cape Breton.

(3) Whether the provincial officers could drive out our vessels from provincial bays and harbors when, in the judgment of the authorities, they did not in fact need shelter or repairs; and

(4) The legislation already referred to.

These questions were not in all respects analogous to those which arose between A. D. 1866 and A. D. 1870, and which have again arisen in the last two years; but whatever they were, none of them were settled and all were postponed, and for the time being submerged in the reciprocity treaty of 1854. In A. D. 1866, at the expiration by notice from the United States of the treaty of 1854, the difficulties touching the fisheries were renewed, and they continued until suspended by the treaty of Washington of 1871.

During this period substantially every question arose which has been in dispute within the last two years; yet not one of them was permanently settled by Congress, the Executive of the United States, or by the Treaty of Washington. The consular correspondence in the summer of A. D. 1870 shows that our vessels were then for-

bidden obtaining bait and all other supplies in Canada, and were excluded from Dominion ports except when putting in for the purposes expressly named in the Convention of 1818. Numerous seizures were made at that time, followed by forfeitures, one of which was the well known case of the *J. H. Nickerson*, a vessel proceeded against at Halifax for purchasing bait, while the United States took no action whatever concerning her and made no reclamation, so that she became a total loss to her owners. This period ended in the treaty of 1871, as did that which closed in A. D. 1854, with the United States securing favorable interpretation of any right in dispute.

The references to the treaties of 1854 and 1871 are merely for the necessary purpose of showing their bearing on the present status. Those negotiations were on a much broader scale, and may be said to have involved larger questions than those now under consideration; although everything which endangers in the least the harmony of nations must be regarded as touching the possibilities of great consequences. The nation would not brook that the high motives and great skill and experience of the gentlemen concerned in the formation of those treaties should not be at all times declared. The treaty of 1854 was a beneficent production of broad statesmanship, a blessing to the country, and its good results have come down to this date in the enlargement of commercial relations with Canada, which is among its legitimate issue, and has already long survived its own existence.

The negotiations of 1871, as well as the consequent proceedings at Geneva, were in the hands of practiced statesmen and jurists, led by a Secretary of State eminent alike for his private and public virtues. These citizens had been honored by the people with many trusts; but for their diplomatic accomplishments at Washington and the verdict at Geneva they will also be honored by history. While the purely accidental result of the Halifax commission must, in comparison, be regarded as the spluttering and flickering of a farthing candle, the exact cost of which is known but will soon be forgotten, the moral spectacles of the grander arbitration between the United States and Great Britain, and of the treaty which led to it, have given out a light which will shine on and on for the illumining of civilization so long as the English tongue shall be spoken. Considering all the great interests which those negotiators had in hand, it was not surprising that it was deemed by them sufficient to give the fisheries a temporary peace, which also they had reason to expect would become permanent. It is in no sense, therefore, in a depreciatory spirit that we refer to these events; but only because dry truth requires that their incidental effect on the issues with which we now have to deal should be clearly stated. The protocol of the conference of the commissioners held May 4, A. D. 1871, is as follows:

"The British commissioners stated that they were prepared to discuss the question of the fisheries, either in detail or generally, either to enter into an examination of the respective rights of the two countries under the treaty of 1818 and the general law of nations, or to approach at once the settlement of the question on a comprehensive basis."

Our commissioners selected the latter. The result was no issues in controversy concerning the fisheries were decided, and all were postponed; and a rule of negotiation was adopted for that topic, which has since, justly or unjustly, given great dissatisfaction to the interests involved.

It thus appears that this controversy commenced more than a half century since, and during that period nothing has been determined. After questions have continued so long unsettled and have been twice formally postponed, it necessarily remains that it is difficult for either party to press its full rights to a complete conclusion in all particulars. Traditions become fixed on one side or the other, systems of legislation accumulate which become inextricably involved with the general mass, and the contemporary facts and understandings are lost or assume new phases. Claims made by Great Britain, or by Nova Scotia or Canada in her name, have stood so long without definitive reversal that they gained such strength as to be in some particulars quite

as difficult of disturbance as though originally based on sound principles and correct rules of construction.

This was the status of these questions when the present negotiations commenced; yet former administrations had not failed to give some indications of the suitable methods of meeting them. In the dispatch of Mr. Seward, then Secretary of State, to Mr. Adams, then our minister at London, of April 10, A. D. 1866, Mr. Seward suggested a mixed commission for the following purposes:

"(1) To agree upon and define by a series of lines the limits which shall separate the exclusive from the common right of fishing on the coasts, and in the seas adjacent, of the British North American colonies, in conformity with the first article of the convention of 1818; the said lines to be regularly numbered, duly described, and also clearly marked on charts prepared in duplicate for the purpose.

"(2) To agree upon and establish such regulations as may be necessary and proper to secure to the fishermen of the United States the privilege of entering bays and harbors for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and to agree upon and establish such restrictions as may be necessary to prevent the abuse of the privilege reserved by said convention to the fishermen of the United States.

"(3) To agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial and judgment with as little expense as possible for the violators of rights and the transgressors of the limits and restrictions which may be hereby adopted."

The "memorandum" prepared by the Department of State for the information of the commissioners who, on the part of the United States, assisted in negotiating the treaty of Washington of 1871, contained suggestions for adjustment in the following language:

"(1) By agreeing upon the terms upon which the whole of the reserved fishing-grounds may be thrown open to American fishermen, which might be accompanied with a repeal of the obnoxious laws and the abrogation of the disputed reservation as to ports, harbors, etc.; or, failing that,

"(2) By agreeing upon the construction of the disputed renunciation, upon the principles upon which a line should be run by a joint commission to exhibit the territory from which the American fishermen are to be excluded, and by repealing the obnoxious laws, and agreeing upon the measures to be taken for enforcing the colonial rights, the penalties to be inflicted for a forfeiture of the same, and a mixed tribunal to enforce the same. It may also be well to consider whether it should be further agreed that the fish taken in the waters open to both nations shall be admitted free of duty into the United States and the British North American colonies."

It will be observed that the suggestions of Mr. Seward were substantially repeated in the instructions of A. D. 1871, and were also embraced almost in terms in the proposals accompanying the dispatch of Mr. Bayard to Mr. Phelps of November 15, 1886; and the treaty just negotiated, it is believed, accomplishes all which was contemplated by them.

The words of delimitation of the convention of 1818 are as follows: "On or within 3 marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America." The prohibition of 1818 covered in terms not only the coasts, but also the bays of the British dominion; so that a fair construction of the language could not be met by running a line which at all points followed the windings of the shore. Such was apparently the theory of Edward Bates, the umpire, in his opinion given in the case of the *Washington*, decided under the convention of 1853, wherein he used the following language: "The conclusion is therefore irresistible that the Bay of Fundy is not a British bay within the meaning of the word as used in the treaties of 1783 and 1818." So also Mr. Everett in his note of May 25, A. D. 1844, said: "The vessels of the United States have a general right to approach all the bays in Her Majesty's colonial dominions within any distance not less than

3 miles." It is not, however, to be understood by this suggestion that the "headland" theory is at all accepted. That assumed to run a line shutting in all sinuosities of the coast, without considering whether or not particular headlands marked jurisdictional bays, or, in other words, bays which were properly parts of the British dominions, and it is now approved.

That there may be no misunderstanding, let us follow this distinction a little further. The *Washington* was seized in the Bay of Fundy in A. D. 1843, and that raised a question of the "bays," that is, whether the whole of Fundy was a part of the British dominions. The *Argus* was seized at nearly the same time in the great bend of Cape Breton. As the affidavits on file at Halifax show, she was captured less than 2 miles within a line from Cape North to Cow Bay; and that capture marked the "headland" disputes.

The opinion of the law officers of the Crown of 1841, in answer to the second and third queries, said, erroneously, of course: "The term 'headland' is used in the treaty to express the part of land we have before mentioned, including the interior of the bays and the indents of the coast." It may here be said that the same opinion in answer to the fourth query denied the free right of navigating the Gut of Canso. Mr. Stephenson, our minister at London, recognized the distinction in his note to Lord Palmerston of March 27, A. D. 1839, where he said: "The provincial authorities assume a right to exclude the vessels of the United States from all their bays, including those of Fundy and Chaleur, and likewise to prohibit their approach within 3 miles of a line drawn from headland to headland," etc. So Mr. Everett, in his note to Earl Aberdeen of May 25, A. D. 1844, admitted that it was "the intent of the treaty, as it is in itself reasonable; to have regard to the general line of the coast, and to consider its bays, creeks, and harbors, that is, the indentations usually so accounted, as included within that line."

Now, the present treaty apparently holds to the rule stated by Mr. Everett, except that it defines what has heretofore been undefined. This, of course, is subject to the qualification that, except in special cases, in A. D. 1818 jurisdiction bays were limited to those not exceeding 6 miles in width between their headlands, or even to narrower ones; while the present treaty has adopted the more modern rule of the 10 miles opening as a practical and not injurious solution of this whole dispute concerning bays and headlands.

Therefore, under the convention of 1818 the question arises in every case: What is a jurisdictional bay, that is, a British bay, or, in other words, a bay which was then a part "of His Britannic Majesty's dominions in America?" This having been ascertained, another question arises, whether any bay which was not jurisdictional in A. D. 1818 has since become so inclosed by the growth of population that, on the principles by which we claim as our exclusive waters Chesapeake and Delaware bays and Long Island Sound, we may properly concede it to Great Britain according to its existing circumstances, as an inducement to a suitable and just arrangement of all questions of delimitation? With reference to this question, and indeed with reference to all this branch of the case, the United States, with its extensive coasts, its numerous bays, its rapidly increasing population and commercial interests can not wisely permit a narrow precedent.

The bay of Chaleur, the shores of which in A. D. 1818 were uninhabited, has by the advance of population become a part of the adjacent territory for all jurisdictional purposes; and it has ceased to be of special value to our vessels except for shelter or supplies. The same observations apply with greater force to the bay of Miramichi. The bays of Egmont and St. Ann's are hardly more than mere sinuosities of the coast; but they and the excluded parts of the Newfoundland bays are of no value to our vessels for fishing. It is not unreasonable to grant the release of all of them, in view of the fact that as to all other waters we remove long standing disputes. It is not to be overlooked that all these bays have long been claimed by Great Britain as of right.

At the mouths of all the bays designated in the treaty by name, the fourth article makes special lines of delimitation. There seems to be an impression with some that the exclusion is 3 miles seaward therefrom; but this is plainly erroneous. Each of these lines is run from one powerful light to another, except one terminus at Cape Smoke, which is a promontory over 700 feet in height. The external peripheries of visibility of these lights overlap each other very considerably on each of these lines, so that for our vessels danger is not where bays have been specifically released. This will be found at the 3-mile limit from the open shore, where it always has been. There is, however, confusion about this, and some debit the treaty just negotiated with the inevitable hazards consequential on the principles of that of 1818. If the commission of delimitation is appointed as the treaty provides, this commission, of course, will, as Mr. Seward and Mr. Fish foresaw, diminish the danger on the open coast, by giving on the charts which it prepares bearings of lights and other marked points; so that vessels by the aid of these bearings will be able to protect themselves in some degree. Nevertheless, there are the nights and thick weather, but the consequences of these are inherent in the principles of the convention of 1818, and will be diminished and not enlarged by the practical workings of the present treaty.

In the case of the *Washington*, Mr. Bates referred to the treaty between France and Great Britain of 1839, excluding from the common right of fishing all bays, the mouths of which did not exceed 10 miles in width, and indorsed this as a proper limit. In the treaty between France and Great Britain of 1867 the same limit was adopted; and it was approved by the common judgment of Great Britain, the German Empire, Belgium, Denmark, France, and the Netherlands, in the treaty concerning the North Sea fisheries, signed at The Hague May 6, A. D. 1882. With the weight of international consensus in its favor, and in view of the interest of the United States to aid precedents which will enable us to afford proper protection to our extensive coasts, and admitting the necessity of finding some practical method of delimitation, this rule seems on the whole convenient, wise, and not unjust. Moreover, considering the inability of our mackerel vessels, substantially all of which use the purse seine to fish in shallow waters along the coast, and that very few American fishermen, perhaps none, in the pursuit of halibut or cod desire to fish there, it is impossible to believe that this rule surrenders anything of essential value to us.

It is fair to add that the ten-mile rule was apparently not congenial to Canada. In the proposals made to Great Britain in the autumn of A. D. 1886, Mr. Bayard, after reciting substantially the suggestions made by Mr. Seward, and elaborating them, offered this rule; but the Marquis of Salisbury, in his reply of March 24, 1887, commented that this "would involve a surrender of fishing rights, which have always been regarded as the exclusive property of Canada."

The specific delimitations at several smaller bays will, on examination, be found to be in harmony with the views of the United States as to the proper results of the general rules of 1818. On the whole, by this part of the treaty a long and troublesome dispute affords promise of being ended without either party giving up anything of value.

Next, the treaty touches the matters which have involved our fishing vessels in their most serious troubles, fully covering reports to custom-houses, fees, and other charges, cases of disaster and distress, and incidental supplies such as merchant vessels buy. It is of course impossible to anticipate all the questions which may arise as between coterritorial peoples, even with the most careful phraseology; and there are some matters which can not be confined within fixed terms without limiting the rights of one party or the other to an extent to which neither could be expected to submit. Among these is that discretion which must be exercised on the one side by the "skipper" who runs in for shelter in deciding whether or not it is prudent to put to sea, and on the other side by the revenue authorities in determining whether or not the vessel is hovering or loitering unlawfully within the waters of Canada. Such matters must in the main be disposed of satisfactorily by the practical operation of

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what is expressed and by the limitation imposed in the article which will immediately be considered.

The treaty next seeks to alleviate the hardships of the legal proceedings which various statutes of the province and the Dominion have imposed on foreign vessels. These statutes extended to fishing vessels systems of procedure which are with less injustice applied to merchantmen. The latter come voluntarily into port, and are ordinarily furnished either with credit or cash through their consignees, enabling them to protect themselves in case of litigation. Fishing vessels, however, especially those putting into strange waters merely for shelter, have no such aids and frequently have with them very little cash; and the result has been that the forms of proceedings, which might not be burdensome for merchantmen, have, with reference to fishing vessels, obstructed the course of justice. Through the intervention of counsel employed by the Secretary of State for observing the trials of the *David J. Adams* and the *Ella M. Doughty*, there have been received practical lessons in the difficulties surrounding fishing vessels under the statutes and proceedings of the courts of the Dominion. As already explained, these had been allowed to thrive so long without any successful effort on the part of the United States to prevent their growth, that they had become too deeply rooted in the general mass of Canadian legislation to permit their being entirely drawn out. It is believed, however, that so far as this article may fail to remove all these difficulties detail by detail, its limitation of penalties, except for illegal fishing or preparation therefor, will do very much to prevent injustice under any circumstances; while as to vessels poaching, it is for the interest of each Government that they shall be restrained by severe punishments.

To follow out the matter more in detail: A fishing vessel is seized in the Bay of St. Ann's, or up in the Gulf of St. Lawrence. Under existing statutes, first of all, and before she can claim a trial or take testimony or other steps towards a trial, she is required to furnish security for costs not exceeding \$240. The practical experience is that fishing vessels taken into strange ports are rarely provided with funds or credit, and therefore they are compelled to communicate with their owners for assistance, and by reason of the consequent delay are unable to take even the preliminary steps before the sharesmen scatter and the witnesses are lost; because sharesmen, not being ordinarily on wages, can not be held to a vessel moored to a pier. This provision of the Canadian law is not singular; in our own admiralty courts no person can ordinarily claim a fishing vessel, or whatever vessel she may be, without furnishing like security. Under the treaty this disappears; and in practice this relief will be found to be of great benefit to our fishermen.

Next, the courts into which all the cases of these fishing vessels have been brought are not provincial, but are Imperial vice-admiralty courts, established and governed by the uniform rules of the Imperial statute, although presided over by a local judge designated for that purpose. As a consequence, all the paraphernalia and fees of Imperial courts are met, and the progress of the trial requires the early disbursement of large sums of money common in all of them, but unknown in our own and in the provincial courts. These are necessarily so large that our consular correspondence shows the burden of securing the costs and advancing fees was alone sufficient in some instances to compel owners to abandon the defense of vessels of moderate value. The statutes to which we have already referred, moreover, stipulated that no vessel should be released on bail without the consent of the seizing officer; and, although it must be admitted that in practice this has not yet been found to create difficulty, it is annulled by the treaty. While it is impossible to anticipate or prevent all causes of legal delays and expenditures, yet there is no reasonable ground for denying that this thirteenth article will essentially moderate these enumerated rigors.

The punishment for illegally fishing in the prohibited waters has always been forfeiture of the vessel and the cargo aboard at the time of seizure. It was not possible, nor was it for the interests of either country, to demand that the penalty imposed on actual poachers should not be severe; but this article provides that only the cargo

aboard at the time of the offense can be forfeited, and the provincials can not lie back until a vessel has taken a full cargo, and then sweep in the earnings of the entire trip for an offense committed perhaps at its inception. Moreover, the article provides the penalty shall not be enforced until reviewed by the governor-general in council, giving space for the passing away of temporary excitement and for a calm consideration of all mitigating circumstances. Also, from the passage of the statute of 1819 the penalty for illegally "preparing to fish" has been forfeiture. This has at times been construed to extend not only to preparing to fish illegally, but also to a preparation within the Dominion waters for fishing elsewhere. The *J. H. Nickerson*, already referred to, was forfeited in A. D. 1870 on this principle, without any specific protest from the United States or any subsequent reclamation.

If the plenipotentiaries had been working new ground, in view of the indefiniteness of the words and of the fact that preparation is ordinarily accepted as of lower grade than actual accomplishment, it may be that the penalty of forfeiture under any circumstances for this offense would have been surrendered; but a statute which has stood for nearly seventy years without successful objection can not easily be wholly overthrown. The treaty, however, clearly eliminates every principle on which were based the forfeiture of the *J. H. Nickerson* and the proceedings against the *Adams* and the *Doughty*, and also, taking into consideration the other elements already referred to, it makes forfeiture the extreme penalty, but directs that the punishment shall be fixed by the court not exceeding the maximum, so that, if circumstances justify in any case, it may be reduced to a minimum. In lieu of all the other penalties rising to forfeiture, imposed by the Dominion statutes concerning the fisheries for technical offenses and offenses known and unknown, the maximum for all such will be \$3 for every ton of the boat or vessel concerned. Under the provisions of this treaty the *Ella M. Doughty*, caught in the ice, would have gone free, and the *David J. Adams*, which ran across from Eastport into Digby basin for bait, if she had found herself snarled in the intricacies of foreign statutes and legal proceedings, had the option to pay \$3 per ton, or less than \$200—in other words, less than the amounts heretofore required as security for costs and to pay expenses of defense in the vice-admiralty court and go free—or she could have demanded a summary and inexpensive trial at the place of detention.

It should be borne in mind that the statutes of Canada which we have been discussing are not aimed particularly at vessels of the United States, but include all foreign fishing vessels. While in all respects, even with the modifications which the thirteenth article imposes on them, they are not our statutes, and therefore not what we would make them, yet several of these modifications are concessions from principles and provisions which are found in our own statutes, and concessions which we ourselves would not willingly make in behalf of foreign vessels. On the whole, a careful examination of this section, taken in the light of the ordinary methods of criminal proceedings wherever the common law exists, will show a present desire on the part of Great Britain and Canada to remove just cause of offense, and to cultivate the friendship of the United States; and take it by and large, the net result must be a modicum of those evils and misfortunes, through legal proceedings, which inevitably await strange vessels in foreign ports.

Concerning the fifteenth article, further reference to the protocol of May 4, 1871, of the joint commissioners who negotiated the treaty of Washington will show, as already explained, that the American commissioners preferred a settlement of the fishery questions "on a comprehensive basis." After setting out other propositions, pro and con, which were not agreed to, the protocol proceeds as follows:

"The subject of the fisheries was further discussed at the conferences held on the 20th, 22d, and 25th of March. The American commissioners stated that, if the value of the inshore fisheries could be ascertained, the United States might prefer to purchase for a sum of money the right to enjoy in perpetuity the use of those inshore fisheries in common with British fishermen."

Our commissioners afterwards named \$1,000,000 as the sum they were prepared to offer. The British commissioners replied that this offer was inadequate, and made some other objections to it. Subsequently our commissioners proposed as an equivalent for the inshore fisheries that coal, salt, and fish should be reciprocally admitted free at once and lumber after the 1st of July, A. D. 1874. On the 17th of April the British commissioners replied that they regarded this latter offer as inadequate. Thereupon our commissioners withdrew it, and the equivalents were finally negotiated, as found in the treaty.

In framing the present convention this principle of negotiation seems to have been held by the United States not admissible, but it ought not be denied, if to purchase bait and in other ways make the shores of Canada and Newfoundland the base of our fishing operations have a pecuniary or property value to the United States, an equivalent therefor may justly be demanded by Great Britain. In any bargaining for the same, however, all the parties concerned should stand free and on equal footing. Great Britain in this article freely states what she is willing to accept, and if the convention is ratified, Congress may freely adopt its terms if it deems it for the interest of the country so to do.

The objections that the treaty does not secure privileges for bait, shipping men and transshipping fish are not considered here, as they have been fully discussed elsewhere. Also discussion of the other ill-founded objection that the treaty gives us nothing worth purchasing is omitted, because it makes no attempt to purchase anything. It gives no consideration whatever for the benefits which we receive under it.

Much has been said by the opponents of the treaty concerning the reciprocal arrangement of A. D. 1830; and indeed some of them apparently suppose a treaty with Great Britain was then made. The most convenient way of understanding that arrangement is to turn to Jackson's proclamation of May 29, A. D. 1830, by which it was brought to its completion; and its entire practical effect is made clear from the circular of the Secretary of the Treasury to the collectors of customs of October 6, A. D. 1830, and by the order in council of November 5 of the same year.

While this marked a long step forward in reciprocal arrangements with the neighboring provinces, so that it afforded the Secretary of State, Mr. Bayard, very just and persuasive arguments in favor of the most liberal treatment by Canada of our fishing vessels, yet its very letter, as well as its spirit, related exclusively to vessels engaged in commerce and to merchandise carried from the ports of one country to the ports of another. Not only did it not contemplate the purchase of fishing supplies to be used on the ocean and other facilities for fishing vessels, but its phraseology clearly excluded any such purpose. Are we any more entitled to demand under it as a right reciprocity in matters of this sort than Great Britain or Canada can demand under it reciprocity in the coasting trade or in the registering of vessels? And is there anything either in this reciprocal arrangement or in any other between the United States and Great Britain or Canada which renders the refusal to our fishermen of the special benefits of the near locality of Nova Scotia to the fishing grounds more unfriendly, in that sense which justifies retaliation, than our refusal to permit British, including Canadian, vessels to enter our coasting trade, while ours freely engage in the larger coasting trade of the British Empire; or than the refusal to permit the sale by the British, including the Canadians, of their vessels to our citizens with registration, while we may freely sell and register our vessels in any part of the British possessions? There is a wide gulf between this class of privileges which nations grant or refuse in accordance with their own broad or narrow views of their own interests and that class which affects the comfort of strangers and their property in foreign ports. All the latter the treaty just negotiated secures and perpetuates.

In the official pamphlet of the National Fishery Association of March 1, 1888, there is given on the twelfth page the following alternative for this treaty:

"It may be asked how shall we deal with this matter? What can be done to settle the fishery question between the British North American provinces and the United

States? This can be done, and it has the sanction of the Forty-ninth Congress. Wipe out all legislative commercial arrangements and let us go back where we were, so far as commercial intercourse with the British provinces is concerned, when the treaty of 1818 was made. In other words, declare non-intercourse! Put Canada in the same relation to the United States as she was seventy years ago! Then our fishermen would have the same rights they have now under the treaty of 1818, and we should then be in a position to say to her: 'Are you willing this should continue, or do you prefer to deal with us on a fair basis and give to all our vessels, as we are willing to give to yours, full commercial rights in your ports?'

It is not proposed here to dwell on this alternative nor to discuss the propriety of the assumption of a representative character by the National Fishery Association. But in the event the treaty is rejected, if the President heeds this demand, as perhaps under the law he may, neither the association, nor whomsoever it represents, if anybody, nor, more particularly, that part of the community which now fails to rise up against its pretensions, can justly complain.

The fishing interests of New England welcomed with great expectations the expiration of the treaty of 1871, which came about in June, A. D. 1885; but the result has shown how little the prosperity of these interests can rely on political events. The seasons of 1886 and 1887, so far as the mackerel catch was concerned, were disastrous through natural causes, both for our own fleets and for those of Nova Scotia, though less for the latter than for the former. Although the catch for these two seasons was only one-third of the catch for 1882 and 1883, yet the prices made no corresponding advance; so that the money aggregate for the two latter seasons, including all grades of mackerel, could not have been much in excess of one-third of that for the two earlier seasons named. With reference to cod and other ground fish, there was a considerable diminution in the catch for the seasons of 1886 and 1887, with an extremely low market in 1886 and a somewhat improved market in 1887, the net money yield for each being comparatively small. In neither branch of the fisheries, however, were these evils caused by Canadian complications. This is well understood with reference to mackerel, and becomes entirely plain as to cod when the fact is considered that in A. D. 1883, A. D. 1884, and A. D. 1885, the catch on the New England shores and George's Banks exceeded that on the Grand and Western Banks, while the reverse occurred in A. D. 1886 and A. D. 1887. Before the Senate Committee on Foreign Relations in A. D. 1886, Sylvester Cunningham, of Gloucester, testified that—

"The price of fish is so low now that, if we should allow Canadian fish to come in free, our vessels would not sail. The price is very low."

Mr. O. B. Whitten, vice-president of the Fishery Union, also testified before the same committee, October 6, 1886, as follows:

"Q. Have you ever noticed that the duty has increased or that the absence of duty has decreased the price of fish to the consumer during the last fifteen years?

"A. I do not know that the duty has anything to do with it whatever. *In fact, it is strange that salt fish were never so low as they are at the present time with the duty on.*"

Mr. L. R. Campbell, deputy commissioner of labor for the State of Maine, in an interview with a reporter of the Kennebec Journal, on the 17th day of November last, said:

"The fishermen are in a worse condition to-day than they have been for a number of years, for the reason that they had two bad seasons in succession."

Indeed, the depressed condition of the fisheries for the last two years is too notorious to need evidencing, though the above explanation of its causes seem necessary.

In this state of financial losses and anxiety the fishing interests are, of course, not prone to welcome anything which will not, in their opinion, give them immediate financial relief; yet the writer speaks from a considerable personal knowledge when he says that whomsoever may have part in advancing the wholesome and beneficent treaty just negotiated can without trepidation trust himself in the hands of the fish-

ermen of Maine, those who actually man our fleet, and to the sober second-thought of those who own the vessels.

It is to be hoped the present season will be one of prosperity for the cod and mackerel catchers on each side of the line. Our fishermen need it sorely; and the good humor which would flow therefrom would quickly flood out the recollections of the past ill-will and its consequent mischiefs.

WILLIAM L. PUTNAM.

PORTLAND, ME., *April 16, 1888.*